

No. , 1911.

A BILL

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:—

1. (1) This Act may be cited as the “Local Government Short title. (Amending) Act, 1911.”

(2) In this Act “Principal Act” means Local Government Act, 1906, as amended by the Local Government (Loans) Act, 1907, and the Local Government (Amending) Act, 1908.

(3) In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act as amended by this or any other Act.

2. Section one of the Principal Act is amended by adding to subsection one the following words:—"This Act as amended by any other Act may be cited as the 'Local Government Acts'."

3. Section fifty-five of the Principal Act is amended in paragraph (a) by omitting the words "and verified by statutory declaration of the terms thereof."

4. Section seventy-three of the Principal Act is amended in subsection one by adding the following paragraph:—

(xiii) the regulation of the weight of loads upon vehicles crossing bridges.

5. The following new section is inserted next after section 75B of the Principal Act:—

75c (1) Where, in pursuance of any authority, statutory or otherwise, any person or board proposes to lay any new main or branch pipes, drains, or electric wires, along or under any road in an area, such person or board shall submit to the council plans and sections showing where and how such main or branch pipes, drains, or wires are proposed to be laid. The council may approve of such plans, or may require them to be altered before approval is given. When such mains, pipes, drains, or wires are laid they shall be laid as shown on the plans approved by the council.

The provisions of this subsection shall not apply to pipes, drains, or wires laid to connect any land or building with any pipes, drains, or wires laid in a road, nor to the repair or renewal of any pipes, drains, or wires.

(2) Where, in pursuance of any authority, statutory or otherwise, any person or board proposes to lay, repair, renew, or remove any main or branch, pipes, drains, or wires along or under any road in an area, such person or board shall give the prescribed notice to the council, and the road shall not be broken for the purpose of such laying, repairing, renewing, or removing until such time as the council and such person or board mutually agree upon: Provided that, in case of emergency or urgent necessity, repairs and renewals may be carried out forthwith, and written notice thereof shall be immediately given to the council.

The provisions of this subsection shall not apply to pipes, drains, or wires laid to connect any land or building with any main or branch pipes, drains, or wires laid in a road.

(3) The laying, repairing, renewing, and removing of pipes, drains, and wires connecting any land or building with any main or branch pipes, drains, or wires laid in a road in an area shall be subject to such conditions as may be prescribed by ordinance.

(4)

(4) Where, in any road in an area any mains, pipes, drains, or wires are being or have been laid, repaired, renewed, or removed, or where any connection is being or has been made to any land or building, the council or its authorised servant may give written notice to the person or board concerned that the council elects to carry out, and the council may thereupon carry out the work of filling up any excavation in such road made under the directions of such person or board, and of restoring to its original condition the roadway or footway of such road, and may recover the cost of the work so done from the said person or board.

If the council do not so elect, such work shall be done by such person or board to the satisfaction of the council, or of some person authorised by the council, and in default the council may cause such work to be done as it thinks necessary, and may recover the cost thereof from the said person or board.

(5) The provisions of this section shall apply to the Board of Water Supply and Sewerage and to the Hunter District Water Supply and Sewerage Board.

6. Section seventy-seven of the Principal Act is amended in subsection one—

- (a) by inserting after "person" the words and bracket "(including a contractor doing work for the council)";
- (b) by inserting before "unenclosed" the words "enclosed or";
- (c) by inserting after "area" the words "contiguous to or adjoining any public place";
- (d) by inserting after "crop" the words "vineyard, orchard";
- (e) by omitting the word "dwelling-house" and inserting the words "building of a permanent character";
- (f) by inserting after "structure" the words "or within two hundred yards from any dwelling-house";
- (g) by inserting at the end of the subsection the words "The power of entry on and passage over any land shall be deemed to extend to any land which it is necessary to pass over to obtain access to the land upon which the material required is located. The council or person aforesaid shall, in the case of enclosed land, give notice in writing to the owner or occupier of the said land seven days at least before entering such land in pursuance of this subsection; and shall carry out any regulations which the Governor is hereby authorised to make prescribing the conditions to be performed and the things to be done in and in relation to the exercise of the powers conferred by this subsection: This section shall not be deemed to authorise the breaking of a fence which is wire-netted for the exclusion of rabbits."

7.

7. The following section and short heading are inserted next after section ninety of the Principal Act :—

Country Towns Water and Sewerage.

90A. The Governor may by proclamation declare that the provisions of the Country Towns Water and Sewerage Acts, 1880-1905, and any Acts amending the same, shall apply, and thereupon such Acts shall be taken to apply, to any shire or portion of a shire named in such proclamation situate wholly outside the county of Cumberland in the same way as such Acts apply to municipalities.

In so applying such Acts, "council of a shire" shall be read for "council," and any reference in the said Acts to the area of a municipality or of a borough or municipal district shall be taken to refer to the shire or the part thereof to which the said Acts are applied as aforesaid.

8. Section one hundred and nine of the Principal Act is amended by adding the following paragraphs :—

(liv) Providing for and regulating the notification of tuberculosis in man, with power to require the observance of precautions to prevent the spread of the disease, but without authority to require the segregation of persons suffering from the disease.

(lv) The acquisition of land or buildings for workmen's dwellings, and the construction of houses for any such purpose, with power to sell or lease such land and dwellings upon such terms as may be prescribed by ordinance. The council may, subject to the provisions of Part XXVI of this Act, in the exercise of such powers, borrow upon the security of such land or buildings, and the rents thereof, and the revenues to be derived from a loan rate, which must be levied in respect of such loan.

(lvi) The sale and distribution of milk.

9. The following new section is inserted next after section one hundred and eleven of the Principal Act :—

111A. (1) Where a council has works of water, gas, or electricity supply, or sewerage works, or any works or services which they are authorised under this or any other Act to carry on or perform, such council may, notwithstanding the provisions of this or any other Act to the contrary, supply water, gas, or electricity, or connect its sewers or extend its works or services to any place situated outside the area of such council :

Provided that—

(a) where such place is within the Western Division the approval of the Minister shall first be obtained ;

(b)

- (b) where such place is within another area, the consent of the council of such other area shall first be obtained; and an agreement shall be entered into between the councils specifying the conditions upon which such consent is granted.

(2) Where a council exercises the powers given by this section, such council shall not levy any rate on any land outside its area; but may with respect to water, gas, electricity, or sewers, or any other works or services, make such agreements as it may deem necessary with persons in connection with such services for payment by such persons of charges for such services, and each such agreement, where made with the owner of the land served, shall contain a clause making such charges a charge upon such land in priority to all sales, conveyances, mortgages, charges, loans, and encumbrances whatsoever, and such charges may, notwithstanding any statute of limitations, or anything contained in this Act, be recovered at any time within ten years by the council from the owner of the land, except the Crown. With respect to works or services for the use of which within the area the council may fix charges; the council may also fix charges for the use of such works or service outside the area.

10. Section one hundred and twelve of the Principal Act is amended—

- (a) in paragraph (a) of subsection one, by inserting after “animal” where first occurring in the paragraph the words and brackets “(except an animal which has been declared noxious under the Pastures Protection Act, 1902, or any Act amending the same),” and by inserting the word “noxious” before “animal” where last occurring in the paragraph;
- (b) by omitting paragraphs (b) and (c) of subsection one, and inserting the following paragraphs:—
- (b) may advertise in all such newspapers as are known to the council to be published in the area, and in any newspaper circulating in the area, that such plants or animals have been declared noxious and that they must be destroyed by all occupiers of land in the area, and that thereafter the lands in the area must be kept free from such plants or animals. After the expiration of three months from the date of publication of such advertisement in any newspaper published or circulating in the area, the council may, without further notice, recover from the occupier of any land in the area (whether such occupier be the owner or not) a penalty not exceeding *fifty* pounds upon proving that any noxious plant or animal named in such advertisement has been found, after the said period of three months,
- upon

upon or under the said land, and may also cause such land to be entered and all noxious plants or animals thereon or thereunder to be destroyed, and any reasonable expense thereby incurred may be recovered by the council from the said occupier in any court of competent jurisdiction :

Provided that the council shall, in September of each year thereafter, publish in all such newspapers as are known to the council to be published in the area, and may publish in any other newspaper, a notice drawing attention to this provision and reciting the terms of the aforesaid advertisement with the names and dates of the newspapers in which it was published ; and if a council make default in publishing such notice in September of any year such council may not recover penalties or expenses as hereinbefore provided until one month after a notice of the same purport is published as aforesaid ;

- (c) may serve upon the owner of any land in the area (except the Crown) a written notice requiring him to destroy all noxious plants or animals on such land within a reasonable period stated in such notice, not less than one month, and requiring him to keep such lands free thereafter from such noxious plants or animals. If, at any time after the expiration of the said period, any noxious plants or animals be found upon or under the said land such owner shall be liable to a penalty not exceeding *fifty* pounds, and the council may forthwith extirpate and destroy such plants or animals, and any reasonable expense so incurred by a council may be recovered from such owner in any court of competent jurisdiction :

Provided that, in the case of private land with respect to which there was, on the first day of May, one thousand nine hundred and twelve a lease in force, the owner shall not be liable to any action under this section until such lease expires or until the land is abandoned by the lessee, whichever may first happen ; but no person shall be entitled to claim exemption hereunder unless within one month after he is served with notice as hereinbefore provided he serves upon the council a written claim for such exemption and produces such lease for the council's inspection on demand ;

- (d) may, if the consent of the Minister for Lands be obtained, extirpate and destroy all noxious plants or animals upon any unoccupied Crown lands, travelling stock routes, or lands which are the property of the Crown and are reserved from sale but not vested in trustees ;

(e)

- (e) shall extirpate and destroy all noxious plants or animals upon any land vested in or leased by it, or upon any public place or public reserve under its care or management;
- (c) by omitting subsection two and inserting the following subsection:—

(2) Where a natural or artificial watercourse or a line lengthwise along any such watercourse forms the common boundary of lands the property of different owners, and where what are known as "give and take" fences are erected to define a convenient boundary between such lands, the lands shall for the purposes of this section be deemed to be owned and, if occupied, shall be deemed to be occupied, with boundaries as defined by the "give-and-take" fence, in so far as such watercourse would otherwise be deemed to be the boundary, and the owners and occupiers of such lands shall each respectively be responsible as hereinbefore provided, for the destruction of noxious plants and animals on such lands as so deemed to be bounded.

- (d) by omitting subsection four and inserting the following subsection:—

(4) Any council which is exercising or has exercised the powers of paragraph (viii) of section one hundred and nine and of this section, and the ordinances applicable thereto, so as to destroy or cause the extirpation or destruction of any particular kind of noxious plants or animals thereon, may require the council of any adjoining area to exercise the like powers, whether acquired under this Act or not, in a similar way with respect to all lands within forty chains of the common boundary of their areas: and thereupon such council so required shall, notwithstanding anything in this Act, comply with such requirement, and in default such council in its corporate capacity shall be liable to a penalty not exceeding *five* pounds for every week during which such neglect continues.

11. Section one hundred and fifteen of the Principal Act is amended—

- (a) by omitting paragraph (a) and inserting new paragraphs (a) and (b) as follows:—
 - (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;

(b)

- (b) in paragraph (c) by inserting after the word "control" the words "all hoardings now or hereafter to be erected, and";
- (c) by omitting all the words from and including "Provided that" down to the end of the section, and inserting in substitution therefor the following proviso:—

Provided that all hoardings in use for advertising purposes on the thirty-first day of October, one thousand nine hundred and eight, shall be exempt from the provisions of this section for a period of five years from the thirty-first day of December, one thousand nine hundred and seven, if charges in respect thereof in accordance with the Local Government Act, 1906, as amended by the Local Government Act, 1908, are regularly paid each year up to the expiration of such period and the hoardings are not allowed to fall in a state of disrepair.

- (d) by inserting a new subsection as follows:—

(2) This section shall bind the Crown: Provided, however, that any person employed by any Government Department shall not require to be licensed in respect of the posting, fixing, or painting of bills, signs, or advertisements in connection with and in discharge of the duties of such employment.

12. Section one hundred and sixteen of the Principal Act is amended—

- (a) by inserting after the word "duty" where first occurring in the section the words "under this Act," and by omitting the words "which is included among those which may be acquired by a council."
- (b) by the addition of the following subsection:—

(2) The Board of Health may recommend to the Governor, and the Governor may proclaim any defined portion of a shire or municipality to be a nightsoil scavenging area, or both. Thereupon the provisions of section one hundred and seven, paragraph (i), section seventy-four, paragraph (i), or section one hundred and nine, paragraph (xiv), or both, as the case may be, and of any ordinance relating thereto, shall apply to such scavenging area, and to the council of such shire or municipality, whether such council has, or has not acquired the powers therein provided, in the prescribed manner; and it shall be the duty of the council to comply with, and enforce the provisions of such ordinance. If, upon inspection being made, the Board of Health finds that the provisions of such ordinance are not being complied with, or enforced to its satisfaction, such Board may, on behalf of such council, enter into a contract for the proper performance

performance of the collection, removal, and disposal of night-soil or garbage, or both, as the case may be, for a term not exceeding five years, and all payments due to the contractor under such contract, may be recovered by him from the council as debts, or as an alternative, such contract may provide that the contractor may charge and collect fees for the service performed, such fees to be fixed by the said board, and to be chargeable and recoverable by the contractor, as provided in section one hundred and three of this Act with regard to fees to be charged and collected by the council. Where charges are made by a contractor under this section, he may retain his collections for his own use, but shall, on the last day of each quarter, furnish statements of charges made, and moneys collected, to the council. The reasonable expenses of the said board in arranging for any such contract and in supervising its execution, may be recovered from the council as a debt, and shall, if there be not sufficient money at credit of the appropriate special or local fund of the council, be paid from general fund. Any contract entered into by any council after the first day of January, one thousand nine hundred and eleven, which contains provisions not in accordance with, or omits provisions necessary to accord with any ordinance, as aforesaid, shall be null and void.

13. A new section is inserted next after section one hundred and forty-eight of the Principal Act, as follows:—

148A. (1) When in respect of any ratable land any rates accrued thereon under this Act have been unpaid for seven years or longer, the council may lodge with the registrar of the district court nearest to the land in respect of which the rates are payable a certificate in the form prescribed of the total amount of rates and interest thereon due and in arrear at the date of the lodgment of the certificate.

(2) Upon the receipt of the certificate, such registrar shall forthwith publish in the Gazette and in a newspaper circulating in the area a notice in the form prescribed, that after the expiration of three months from the date of such notice warrant of execution will issue unless the amounts due in respect of rates and interest thereon, together with all costs and expenses incurred in the recovery of the same up to the date of payment, be sooner paid.

(3) Any owner, lessee, or trustee of any land may register himself as such by notice in writing, in the manner prescribed, in respect of any land, which registration shall be preserved and recorded by the council, and shall be open to inspection upon payment of a fee of one shilling. Any person

so registered shall be served at the place of abode or business specified in any application for registration with notice of intention to issue execution as aforesaid.

(4) After the expiration of the time specified in any such notice such registrar shall issue a warrant of execution against the land unless all sums payable as rates, interest, costs, and expenses have been paid.

(5) The warrant of execution shall be in the form prescribed, and shall be directed to the bailiff of such court and shall be executed by him against the land in respect of which rates are due, notwithstanding any change that may have taken place in the meantime in the ownership of the land, for the recovery of the amounts due as aforesaid, in the same manner as warrants of execution against land are executed under the laws in force for the time being relating to district courts.

(6) Notwithstanding anything to the contrary, a certificate of rates unpaid duly lodged in proper form by a council shall be sufficient authority to such registrar for the doing of the acts therein required to be done in accordance with this section, and shall not be questioned by the registrar.

(7) The moneys arising from the sale of land in accordance with this section shall be applied in priority of all sales, conveyances, mortgages, charges, loans, and encumbrances whatsoever, and notwithstanding the disability of any person or of any statute of limitations—

Firstly, in payment of the costs and expenses of the registrar of and in connection with the prescribed notices and warrant of execution, and the sale thereunder: Provided that, if the moneys arising from the sale of the land are insufficient to pay the costs and expenses of the registrar, the same or the balance unpaid shall be a debt due by the council to the registrar, and may be recovered accordingly.

Secondly, in payment of amounts due as rates and interest thereon in the order and manner provided in section one hundred and forty-nine of this Act, and in payment of expenses incurred by the council, including all such costs, charges, and expenses as would be allowed on taxation as between solicitor or client.

Thirdly, in payment of all costs and expenses of and in connection with conferring upon the purchaser a clear title to the land.

(8) After payment of the moneys above mentioned the residue of any moneys arising from the sale of the land shall belong to such person as would if no sale had taken place have been

been entitled to receive the rents and profits of the land: Provided, however, that if any council or board lodges a certificate in the prescribed form that any rates in respect of such land made or levied in pursuance of the Metropolitan Water and Sewerage Act of 1880, the Hunter District Water Supply and Sewerage Act of 1892, the Country Towns Water Supply and Sewerage Act of 1880, the Fire Brigades Act, 1909, or any Acts amending or incorporating the provisions of those Acts or of the Municipalities Act, 1897, are, and have been unpaid for two years or longer, the registrar may pay to such council or board the amount of any rates and interest thereon due and in arrear at the date of the lodgment of such certificate.

(9) In any case where the owner of the land is not known, the registrar shall, after making all payments as hereinbefore provided, pay the residue (if any) of the proceeds of such sale to the council. Such amount shall thereupon be paid into and dealt with in the trust fund and shall not be expended or otherwise applied, except for purposes of investment in Government stock, unless and until a certificate that the person named therein has to the satisfaction of the registrar established that he is the person or the legal representative of the person who would, if no sale had taken place, have been entitled to receive the rents and profits of the land: Provided, however, that after the expiration of fifty years from the date of the sale of such lands, the residue of the proceeds thereof and any interest thereon accruing during such period may with the approval of the Minister be applied to such purposes as the council determines. If any area in which such land is situated is reconstituted the council of the area in which the land is situated after reconstitution shall have the custody of such moneys, but if any such land is partitioned between two areas as a result of reconstitution then an apportionment of the residue of the proceeds shall be made by the Governor upon the basis of the respective values, as at the date of the apportionment, of the portions of the land in the respective areas.

(10) The registrar shall execute a deed of sale or transfer of the land to the purchaser, and the purchaser shall thereupon be entitled to be registered for an estate in fee-simple in the land free of any encumbrance, or, in the case of land held under any less tenure or under any tenure peculiar to gold-fields or mineral-fields, for the entire estate or interest of the owner or occupier in default free of any encumbrance.

(11) The Registrar-General, upon the production to him of any transfer as aforesaid of land which is subject to the provisions of the Real Property Act, 1900, shall register the same,
and

and for that purpose, shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or is not produced.

Notwithstanding anything to the contrary, it shall not be necessary to register in the office of the Registrar-General any warrant of execution against land to be sold or sold in pursuance of this section; and it shall not be necessary to produce to the Registrar-General, or to obtain the consent of any mortgagee or other person whomsoever, to any document or plan or any dealing with the land, or any other matter or thing which by the Real Property Act, 1900, or any amendment thereof is required to be consented to by any person.

14. The following new sections are inserted next after section 170c of the Principal Act:—

170D. Where, before the thirty-first day of December, one thousand nine hundred and nine, any council has borrowed money irregularly by overdrawing upon a bank account current, the Minister may, upon being satisfied that such irregular borrowing was not wilful, and that the interests of the area have not thereby suffered, validate such irregular borrowing upon such conditions as he may impose.

170E. Where before the thirty-first day of December, one thousand nine hundred and ten, any council has obtained the Governor's approval to borrow money, any loan contracted in accordance with such approval shall be, and be deemed to be valid, although the provisions of this Act as to the notification of the amount of the proposed loan and of the details prescribed by the regulations of the proposed expenditure of the money to be borrowed may have been contravened, or may not have been carried out.

170F. (1) Notwithstanding anything in this Act to the contrary, the council of the municipality of Narrandera shall be deemed to have been and to be authorised to borrow an amount which, together with all other loans of the council, shall not exceed the sum of eleven thousand five hundred and seventy-six pounds for the purpose of improving and extending the water supply of the municipality, but it shall not be lawful for the council to again borrow (except a temporary loan under section one hundred and seventy-six or a loan for the repayment of a previous lawful loan) until the total loan indebtedness of the council has been reduced to a sum less than the limit fixed in subsection one of section one hundred and sixty-nine of this Act.

(2) The said council shall, as and from the first day of January, one thousand nine hundred and eleven, levy a loan rate

rate each year, sufficient to pay the interest thereon and provide for the repayment within twenty-five years of the principal. The proviso to subsection four of section one hundred and fifty-six shall apply to such loan rate. Such rate shall not be taken into account in calculating the limit of rates under this Act.

(3) The said council shall, each year, from the revenue account of the Water Supply Special Fund, set aside, in a reserve and renewals fund, such sum as the Minister may decide for the purpose of providing for the renewal of the water supply plant.

(4) The provisions of this Act as to securities, guarantees, funds, accounts, and audit, shall apply to any loan obtained under this section.

170G. Notwithstanding anything in this Act to the contrary, the council of the municipality of Central Illawarra may, with the consent of the Minister, on the security of any bank stock in the possession of the council, borrow from any bank in which such stock is held, and for any period during which such stock is held, an amount which does not exceed the market value of such stock as at the thirty-first day of December preceding the date of application for the Minister's consent aforesaid, as shall be certified by the auditor from year to year. Any moneys so borrowed shall not be taken into account in estimating the council's limit of indebtedness for the purposes of section one hundred and sixty-nine, or the council's limit of temporary borrowing for the purpose of section one hundred and seventy-six.

170H. Notwithstanding anything to the contrary in this Act, the council of the municipality of Broken Hill shall be deemed to have been authorised to borrow from the Government of the State of New South Wales the sum of two thousand pounds during the year one thousand nine hundred and ten, and the money so borrowed shall be deemed to be a valid and legal loan, notwithstanding that the provisions of this Act have not been complied with.

15. Section one hundred and seventy-six of the Principal Act is amended by omitting subsection one and inserting the following in substitution therefor :—

(1) If the consent of the Minister be first obtained, a council may at any time temporarily borrow for any purpose a sum not exceeding the amount of one-third of the council's last published estimate, under sections one hundred and forty-two and one hundred and forty-three of this Act, of a year's total income from all rates levied or to be levied in the year then current, under this Act and the Country Towns Water and Sewerage Acts, 1880-1905, and any other Acts under which councils are authorised to levy rates. Such

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Such sum may be secured upon the revenues payable to all or any funds of the council except the trust fund, irrespective of the purpose for which the temporary borrowing is required. For securing the repayment of any moneys so borrowed, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

Section one hundred and seventy of this Act shall not apply to borrowings under this section.

The moneys at the council's credit in the temporary loan fund bank current account may be used to assist any other fund of the council: Provided that any temporary loan fund moneys which are used to assist any other fund shall be repaid with interest (if any) from such other fund.

16. Section one hundred and eighty-four of the Principal Act is amended—

- (a) in subsection one by omitting the word " council " where last occurring in the subsection and inserting in substitution therefor the word " Governor ";
- (b) in subsection two by omitting the words " direct the amount of remuneration to be paid to each auditor " and inserting in substitution therefor the words " fix the amount of remuneration to be paid for each audit according to a scale to be prescribed ";
- (c) in subsection three by omitting the words " the council " and also the words " but subject to this Act ";
- (d) by omitting subsection four.

