

LOCAL GOVERNMENT  
(VALIDATION AND AMEND-  
MENT) ACT.

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Act No. 29, 1922.

George V, No. 29. An Act to validate certain matters; to amend the Local Government Act, 1919, and certain other Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 24th November, 1922.]

**B**E 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:—

Short title  
and interpre-  
tation.

**1.** (1) This Act may be cited as the "Local Government (Validation and Amendment) Act, 1922," and shall be read and construed with the Local Government Act, 1919, hereinafter called the Principal Act.

(2)

(2) Where any matter is expressed in this Act to be validated, that matter shall be and shall be deemed to have been valid and in accordance with law.

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Effect of  
validation.

**2.** (1) The action of the Minister for Public Works in entering upon various roads in the county of Cumberland, in carrying out works for the improvement thereof without the consent of certain councils and without complying with the provisions of the Public Works Act, 1912, and in altering the levels of such roads, is hereby validated.

Validation --  
main road re-  
construction.

(2) The said Minister may continue to carry out works as aforesaid, and new works upon main roads in the county of Cumberland, and may upon completion hand such works over to the council of the area.

(3) Except in so far as may be necessary for and during the carrying out of such works, this section shall not affect or abrogate the powers and duties of the council in relation to any public road.

**3.** The making and levying by the council of the municipality of Lithgow of the water rate made and levied during the year one thousand nine hundred and twenty of one halfpenny in the pound on the unimproved capital value of the land within the municipality of Lithgow which is ratable for water supply, with a minimum rate of ten shillings, are hereby validated.

Validation --  
Lithgow  
water rate.

**4.** (1) Declarations made under the ordinances relating to the elections of councils, and declarations of office made by persons elected to office under the Principal Act, are hereby validated notwithstanding that such declarations have been or shall hereafter be lodged without first being stamped in accordance with law.

Validation --  
declarations  
unstamped.

(2) The election of such persons and their acting in the offices to which they were elected and all consequences flowing therefrom shall not be deemed invalid solely because of the non-stamping of such declarations.

(3) The provisions of the Stamp Duties Act, 1920, relating to the stamping of declarations made under any Act shall not relate to declarations made for any purpose of the Principal Act or of any ordinance by officers or servants of a council or by electors in connection with petitions or elections.

Amendment  
of Stamp  
Duties Act,  
1920.

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Amendment  
of s. 19.

**5.** Section nineteen of the Principal Act is amended as follows:—In subsection one omit paragraph (a) and insert the following:—

Alterations of  
boundaries.

(a) By the council of any area which will be affected by the proposal, or

Amendment  
of s. 20.

**6.** Section twenty of the Principal Act is amended as follows:—

Altering  
areas.

(a) After subsection one the following new subsection is inserted—

(1A) Where areas are altered by—

(a) taking part of one area and adding it to another area; or

(b) adding to an area land which is not within an area,

the councils of the areas from which any land is taken or to which any land is added shall respectively be deemed to be the councils of the areas altered by the taking away or addition, and no reconstitution of either council or area shall be necessary;

(b) in subsection three, after the word “another” insert “or where two areas are being united”;

(c) in subsection nine, after “the date of” insert “any agreement under subsection four hereof; or”;

(d) after subsection eleven the following new subsection is inserted, namely:—

(12) Where there is a contract or agreement in existence between the council and any person relating to the performance of a work or service or the granting of a privilege throughout the whole or part of a municipality or shire, and where (by any alteration of boundaries or reconstitution of municipalities or shires) any portion of the area embraced by the contract or agreement is taken from the area of a council which is a party to the contract or agreement and added to the area of another council, the duties, rights, and privileges of such

such first-mentioned council under such contract or agreement shall be limited to the lands which are within its area and are embraced by the contract or agreement; while the corresponding duties, rights, and privileges under the contract or agreement so far as they relate to the portion of the area embraced by the agreement and added to the area of another council shall apply to and in respect of such last-mentioned council, which shall, for this purpose, be deemed to be substituted in the contract or agreement for the council therein named :

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Provided that where the original agreement confers a right of purchase or of cancellation upon the council that right shall not without the consent of the other party to the agreement be exercised (after the alteration of boundaries or reconstitution aforesaid) unless both councils exercise it in concert with each other :

Provided also that this subsection may be set aside by agreement between the parties concerned.

**7.** Section fifty-five of the Principal Act is amended <sup>Amendment of s. 55.</sup> by omitting paragraph (c), and inserting the following proviso to paragraph (b) :—

Provided that any person disqualified under this paragraph may remove the disqualification by lodging with the clerk or returning officer the certificate of a stipendiary or police magistrate to the effect that he has before such magistrate declared, on oath, that he renounces all allegiance, obedience, and adherence to any foreign power.

**8.** Section fifty-six of the Principal Act is amended <sup>Amendment of s. 56.</sup> by the addition of the following :—

(4) A person possessing qualification for enrolment in respect of several parcels of land in a ward or riding but actually enrolled in respect of one parcel of land therein who ceases to hold qualification in respect of that parcel shall not on that account be debarred from voting at an election held

Retention of  
qualification  
to vote.

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held within twelve months after so ceasing, if he retains a qualifying interest in another parcel in the same ward or riding and so satisfies the returning officer.

Delegation of  
power of  
appointment.  
Amendment  
of s. 95.

**9.** Section ninety-five of the Principal Act is amended by omitting the proviso to subsection one and inserting the following:—

Provided that the council may delegate to the mayor or president the power to make temporary appointments and to remove any person so appointed, and may delegate to the mayor or president or a servant of the council the power to engage and dismiss servants paid at an hourly, daily, or weekly wage; and any delegation so given may be restricted to a particular class of servant or may be general.

Amendment  
of s. 110.

**10.** Section one hundred and ten of the Principal Act is amended in subsection four by the addition thereto of the following proviso:—

Provided that in the case of gas and electricity undertakings, serving approximately the same parts of the area, the council may transfer from the funds of either amounts in aid of the funds of the other.

Mutual  
support  
between  
trading  
under-  
takings.

Amendment  
and valida-  
tion—Loan  
rates—s. 124.

**11.** (1) Section one hundred and twenty-four of the Principal Act is amended in subsection three by omitting “in the year when the loan is raised” and inserting “in the year when the first instalment of interest or repayment or both falls due.”

(2) The action of certain councils in acting as though the law had been in accordance with the amendment in subsection one hereof is hereby validated.

Amendment  
of s. 177.

**12.** Section one hundred and seventy-seven of the Principal Act is amended by omitting from paragraph (a) the words “of the Governor.”

Validation—  
loans from  
ratepayers.

**13.** (1) The Minister may approve and confirm certain loans irregularly obtained by Ku-ring-gai Shire Council and other councils from various ratepayers, and thereupon such loans shall be validated.

(2)

(2) The following new section is inserted after section one hundred and seventy-seven of the Principal Act, namely:—

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Amendment  
—new sec.  
177A.

*Ratepayers' advances.*

177A. The council may, without obtaining approval under section one hundred and seventy-three, accept an advance not exceeding five hundred pounds from a ratepayer for the purpose of carrying out necessary works applied for by the ratepayer: Provided that the loan shall be either free of interest or at a rate not exceeding four per centum per annum simple interest: Provided also that the terms of the loan shall include provision for repayment by yearly or half-yearly instalments spread over not more than ten years: Provided also that the amount so accepted by a council shall not exceed ten per centum of the total revenue of such council for the preceding year. It shall not be compulsory for the council to levy a loan rate in respect of any such loan. The council shall report each such loan, its purpose and terms, to the Minister for record.

Ratepayers' advances.

14. The Principal Act is amended by the insertion of the following new section after section one hundred and eighty-one:—

Amendment  
—new sec.  
181A.

181A. A loan proposal may provide—

- (a) for the capitalisation of interest accruing during part or the whole of the term of the construction of works or the expenditure of the loan money, and, in the case of a trading undertaking, during a reasonable additional period to enable the establishment and development of custom;
- (b) for payment of instalments of principal and interest not to commence during part or the whole of such term;
- (c) for the loan rate to be suspended accordingly during part or the whole of such term; and the Governor may when giving his approval (if given) allow or disallow any such provision.

Capitalisation of interest—suspension of loan rates.

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**George V,  
No. 29.** **15.** Section two hundred and sixty-four of the Principal Act is amended by altering the numbers of the subsections to make them consecutive.

Amendment  
of s. 264.

**16.** Section two hundred and eighty-three of the Local Government Act, 1919, is amended by adding thereto the following new subsection :—

Amendment  
of s. 283.

Nightsoil and  
sewerage  
depots for  
councils.

(3A) Notwithstanding the provisions of the Metropolitan Water and Sewerage Act of 1880, or the Hunter District Water Supply and Sewerage Act of 1892, the Board of Water Supply and Sewerage, or the Hunter District Water Supply and Sewerage Board, as the case may be, shall, upon application by any council, confirmed by a direction from the Minister for Public Works, provide a suitable depot within the municipality of the applying council with appliances and the necessary attendance and shall permit the emptying of nightsoil pans into the sewers of the Board within that municipality, and shall undertake and supervise the disposal of nightsoil at such depot for the council; and such Board may make a reasonable charge upon the council for the service thus rendered.

Amendment  
of s. 298.  
Ambulance  
transport.

**17.** Section two hundred and ninety-eight of the Principal Act is amended in subsection two by the addition after “brigades” of the words “which are certified to it by the New South Wales Ambulance Transport Service Board to be working under and in conformity with the regulations made under the Ambulance Transport Service Act, 1919.”

Amendment  
of s. 333.

**18.** Section three hundred and thirty-three of the Principal Act is amended by inserting after paragraph (g) a new paragraph (h) as follows :—

Drainage of  
subdivi-  
sions.

(h) the drainage of the land, the drains proposed to be constructed, and whether any land and drains are to be vested in the council.

Amendment  
of s. 353.

**19.** Section three hundred and fifty-three of the Principal Act is amended by the addition thereto of a new paragraph as follows :—

Expenditure on  
life-savers.

(f) life-savers.

**20.** Section three hundred and seventy-four of the Principal Act is amended in the following manner :—

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- (1) Subsection three is amended by omitting the words “time of the notification hereinafter provided” and inserting in lieu thereof “end of the half-year in which the notification hereinafter provided is published.”
- (2) Paragraph (c) of subsection seven is amended by omitting “the period between the notification and the end of the then current half-year and also during each half-year thereafter” and inserting in lieu thereof “each half-year succeeding that in which the notification was published.”
- (3) Paragraphs (d) and (e) of subsection seven are omitted.

Amendment  
of s. 374.

Adjustment  
of water  
supply debts  
to Crown.

**21.** Section three hundred and seventy-five of the Principal Act is amended by omitting subsection two and inserting the following new subsection in lieu thereof :—

Amendment  
of s. 375.

- (2) Where water, sewerage, drainage, or electricity works have been notified as complete and the council has been charged with the care and management of such works and the council makes default in the payment of the sums required to be paid under this Act, or any Acts repealed by this Act, the Governor may notify the minimum local rate in the pound which such council shall make and levy in respect of the maintenance and management of and repayment of capital debt on such works.

Default in  
payment of  
water supply  
debts.

**22.** The omission to notify the division of each instalment into principal and interest and the minimum local rate which a council shall levy in respect of the maintenance and management and repayment of costs of works until the capital debt is repaid, shall not be held to invalidate or in any way to affect the operation or effect of any notification already made and otherwise in accordance with the provisions of subsection seven of section three hundred and seventy-four of the Principal Act.

Validation  
of past  
omissions  
from notifica-  
tions of water  
supply and  
sewerage  
debts.



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Amendment  
of s. 391.  
Cutting off  
water.
- 23.** Section three hundred and ninety-one of the Principal Act is amended by adding after paragraph (e) a new paragraph as follows:—  
(f) if the occupier of the premises fails to comply with any order or public notice of the council requiring consumers of water to economise its use in time of drought or scarcity of supply.
- Amendment  
of s. 398.  
Drainage  
reserves  
vested in  
councils.
- 24.** Section three hundred and ninety-eight of the Principal Act is amended as follows:—  
(a) After “drainage reserve” omit the words in parentheses;  
(b) insert “by agreement between the owner and the council.”
- Amendment  
of s. 420.  
Trading  
franchises.
- 25.** Section four hundred and twenty of the Principal Act is amended in the following manner:—  
Paragraph (b) of subsection one is amended by adding thereto the following:—“Provided that where the length of rails proposed to be laid upon a public place does not exceed two hundred and fifty yards the matter may be dealt with under the next following section instead of under this section.”
- Amendment  
of s. 431.  
Impounding.
- 26.** Subsection four of section four hundred and thirty-one of the Principal Act is amended by adding at the end of the subsection the following:—“Provided the animal be still the property of the same owner.”
- Amendment  
of s. 479.  
Wild flowers.
- 27.** Section four hundred and seventy-nine of the Principal Act is omitted and the following is inserted in lieu thereof:—  
479. Ordinances may be made to regulate the taking, use, sale, or destruction of fauna and of indigenous ferns, cycads, palms, and indigenous flowering plants generally with a view to their preservation.
- Amendment  
of s. 490.  
Aerodromes.
- 28.** Section four hundred and ninety of the Principal Act is amended by the addition to subsection one of the following:—“and the council may grant a subsidy towards the establishment and maintenance of any such station by any Government or public body.”
- Expenditure on  
purposes not  
elsewhere  
provided for—  
amendment of  
s. 504.
- 29.** Section five hundred and four of the Principal Act is amended by the omission of subsection three.
- 30.**

**30.** Section five hundred and seven of the Principal Act is amended as follows:—

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Amendment  
of s. 507.

- (a) Subsections one and two of section five hundred and seven of the Principal Act are omitted and the following subsections are inserted in their place:—

507. (1) A vehicle shall not be plied as a public vehicle unless it is licensed under this Act, and is in charge of a driver licensed under this Act. Licenses under this section may be issued by the council of any area (except an area in which the Metropolitan Traffic Act, 1900, is in force) in respect of vehicles intended to be plied within or both within and outside its area, subject to the further provisions of this section. An application for a license shall be in writing, and shall specify—

- (a) whether it is desired to ply—
- (i) within the area only, but without restriction of route; or
  - (ii) within the area only, upon a specified route; or
  - (iii) within the area and certain adjoining areas, without restriction of route; or
  - (iv) upon a route passing through the area and other adjoining areas; and
- (b) the class of vehicle for which a license is desired, whether cab, omnibus, or delivery van.

(2) (a) Where the application is for a license extending beyond the area of the council to which application is made the council may grant a temporary license for not more than three months: and shall then consult the councils of the other areas affected. If all the councils agree the license applied for may be granted; but if any council disagree or neglect to agree the license may be granted only with respect to that part of the route which is within the areas of the councils which have agreed.

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agreed. Upon any council disagreeing or neglecting to agree as aforesaid the applicant may appeal to the court of petty sessions nearest to the office of the council which so disagrees or neglects, which may hear and determine the matter, having regard to the circumstances of the case and to the public interest, and the order of such court shall be given effect to by the councils.

(b) In considering whether or not a license shall be granted the council shall take into consideration—

- (i) public health, safety, and convenience;
- (ii) the time tables, routes, and fares proposed;

(c) the council may attach to any license such conditions as to time tables and time of journey as to ensure that, where the road conditions are such as to render restriction desirable, there shall not be rival vehicles leaving any particular point at the same time, and there shall not be rival vehicles upon any specially dangerous portion of road at the same time; but the council shall not refuse a license solely with the object of preventing competition.

(b) Subsection five is amended in the third line after "area" by inserting "to whose council the application is made."

Amendment  
of s. 511.

**31.** Section five hundred and eleven of the Principal Act is amended by the addition of the following new subsections:—

Erection of  
monuments.

(2) The council shall not grant to any person permission to erect any such monument until the written approval of the Minister has been lodged with the council.

Approval of  
design.

(3) Any contract entered into after the first day of January, one thousand nine hundred and twenty-three, for the supply or erection of any monument which is proposed to be erected in a public place or public

public reserve shall be void unless the person who is to supply or erect the monument proves that at the time of the entering into the contract the design and situation had been approved by the Minister. George V,  
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(4) Any person may sue for the penalty where an offence is committed against this section. Recovery of  
penalty.

**32.** Sections five hundred and thirty-three and five hundred and thirty-four of the Principal Act are repealed. Repeal of  
ss. 533, 534.  
Leasing or pur-  
chasing land.

**33.** Section five hundred and thirty-seven of the Principal Act is amended by omitting subsection six and inserting in lieu thereof the following new subsections:— Amendment  
of s. 537.  
Protection of  
national  
works.

(6) For the purpose of the construction, control, protection, maintenance and management of national works, and of roads, bridges, ferries, wharves, or public works of whatever character in the Western Division, and for the purpose of construction and the control and protection during construction of any works carried out by the Minister for Public Works for councils, the said Minister shall have and may exercise and enjoy all the powers and immunities of a council under this Act.

(7) The Minister for Public Works may temporarily or permanently close any national work from the use of the public and may dismantle any structure and dispose of the materials thereof.

(8) Ordinances may be made for or with respect to the construction, control, management, maintenance, and protection of national works, and for or with respect to the regulation, restriction, or suspension of the use by the public of national works. Such ordinances may provide for the collection of fees and charges for the use of any national work other than a road or bridge.

**34.** Section five hundred and thirty-nine of the Principal Act is amended in subsection four by the addition of the following proviso:— Amendment  
of s. 539.

Provided that the Minister may on cause shown remit part or the whole of such additional charge in respect of any past or future advance. Advances to  
councils.

**35.**

**George V,  
No. 29.** **35.** Section five hundred and sixty-five of the Principal Act is amended by adding at the end of subsection four the following additional proviso:—

Amendment  
of s. 565.

County  
councils not  
subject to  
ordinary  
limits of loans  
and rates  
of their  
constituent  
councils.

Provided also that the limit of borrowing applied by this Act to the councils of areas included in the county district shall not apply to the county council; and that any loan rate which it may be necessary for the county council to make and levy may be made and levied notwithstanding that thereby the individual limit of rating of any council of an area included in the county district may be exceeded, and that a poll may not be demanded in respect of any county council loan proposal, nor in respect of the basis of any county council loan rate.

Amendment  
of s. 577—  
laying docu-  
ments before  
Parliament.

**36.** Section five hundred and seventy-seven of the Principal Act is amended in subsection one, paragraph (c), by inserting the word "sitting" between the word "fourteen" and the word "days" at each place where they occur.

Amendment  
of sections  
632 and 633.

**37.** Sections six hundred and thirty-two and six hundred and thirty-three of the Principal Act are amended by removal of subsection two from section six hundred and thirty-three and inserting it in section six hundred and thirty-two.

Byron  
Shire—  
power to  
repeal a local  
rate.

**38.** The council of the Byron shire may repeal a local rate levied in the Bangalow urban area in the year one thousand nine hundred and twenty-two, and any moneys paid on account of such rate shall be either refunded or credited to the ratepayer as against other rates due or leviable by the council.

Validation—  
Waratah  
loan.

**39.** (1) The action of the Waratah Municipal Council in borrowing during one thousand nine hundred and twenty-two a sum of two thousand seven hundred pounds from the Government of the Commonwealth without interest, for the improvement of certain roads, is hereby validated.

(2) The council shall each year set aside and invest a sum not less than six hundred and seventy-five pounds to provide for the repayment of the said loan in the year one thousand nine hundred and twenty-six.