

## Act No. 33, 1905.

LOCAL GOVERNMENT  
(SHIRES).

An Act for the local government of rural districts, and for the amendment, extension, and partial repeal of certain Acts to effect the same; and for purposes consequent thereon or incidental thereto. [9th December, 1905.]

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.

*Short title.*

Short title.

1. This Act may be cited as the "Local Government (Shires) Act, 1905," and shall commence and come into operation on a day, within six months from its passing, to be hereafter proclaimed by the Governor, but if such day is not so proclaimed, it shall commence and come into operation at the expiration of six months from its passing.

Division of Act.

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

PART I.—PRELIMINARY—*ss.* 1-4.PART II.—CONSTITUTION OF SHIRES—*ss.* 5-7.1. *Constitution and naming—s.* 5.2. *Division into ridings—s.* 6.3. *Provisional government—s.* 7.PART III.—ENDOWMENT—*s.* 8.PART IV.—POWERS AND DUTIES OF COUNCILS—*ss.* 9-17.1. *General powers and duties—ss.* 9-13.2. *Works on boundaries—s.* 14.3. *Acquisition of land and works—ss.* 15, 16.4. *National works—s.* 17.PART V.—COUNCILS—*ss.* 18-27.1. *Constitution and election of councils—ss.* 18-21.2. *Qualifications and disqualifications—ss.* 22-25.3. *Ouster of office—s.* 26.4. *Defaulting shires—s.* 27.

PART

*Local Government (Shires).*

PART VI.—VALUATIONS AND RATES—*ss.* 28-38.

1. *Ratable land*—*s.* 28.
2. *Land values*—*s.* 29.
3. *Valuations*—*ss.* 30-32.
4. *Rates*—*ss.* 33-38.

PART VII.—FUNDS, ACCOUNTS AND AUDIT—*ss.* 39-43.

1. *Shire funds*—*s.* 39.
2. *Accounts and audit*—*ss.* 40-43.

PART VIII.—ORDINANCES AND REGULATIONS—*ss.* 44-47.

1. *Ordinances*—*ss.* 44, 45.
2. *Regulations*—*s.* 46.
3. *Penalties and evidence*—*s.* 47.

PART IX.—SUPPLEMENTAL AND GENERAL—*ss.* 48-55.

*Definitions.*

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

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

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

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

“Council” means council of a shire.

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

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

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

“Justice” means justice of the peace.

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

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

“Office”

*Local Government (Shires).*

- “Office” means office of president or councillor, and “officer” means holder of any such office.
- “Ordinances” means ordinances made in pursuance of this Act.
- “Owner” means every person who is, whether at law or in equity,—
- (a) entitled to land for any estate of freehold in possession, including the holder of a conditional purchase; or
  - (b) entitled to land for any such estate of freehold as aforesaid as a married woman, to her separate use, otherwise than by the intervention of trustees; or
  - (c) entitled to appoint, or to dispose immediately and absolutely of the fee-simple of any land; or
  - (d) who is a settlor, grantor, assignor, or transferrer of land comprised in any settlement, grant, assignment, transfer, conveyance or other instrument, not made bonâ fide for valuable consideration; or
  - (e) who by virtue of any mortgage (legal or equitable), or of any charge or encumbrance on land is the owner of any estate or interest in land; or
  - (f) who is in actual receipt of, or entitled to receive, or if the land were let to a tenant, would be entitled to receive the rents and profits of land, whether as a beneficial owner, trustee, or mortgagee in possession, or who is receiving the rents derived from land by virtue of any mortgage, or of any charge or encumbrance whatsoever, or who is otherwise, whether at law or in equity, entitled to land for an estate of freehold in possession; or
  - (g) entitled to land partly in one and partly in another or others of the aforesaid ways.
- “Part” means part of this Act.
- “Prescribed” means prescribed by or under this Act.
- “President” means president of a council.
- “Proclaimed” means proclaimed by publication in the Gazette.
- “Proclamation” means proclamation published in the Gazette.
- “Public place” means public road, bridge, jetty, wharf, ferry, or other place which the public are entitled to use, but does not include a public reserve.
- “Public reserve” means land dedicated by the Crown for public use, recreation, or enjoyment, but does not include a common.
- “Public road” means road which the public are entitled to use.
- “Regulation” means regulation made in pursuance of this Act.
- “Road” means road, street, lane, highway, or thoroughfare, including a bridge or culvert thereon.
- “Schedule” means Schedule to this Act.
- “State” means State of New South Wales.
- “Treasurer” means Colonial Treasurer.

“Western

*Local Government (Shires).*

“ Western division ” has the meaning given to that expression in the Crown Lands Act of 1884, or any Act hereafter to be passed amending that Act.

4. All references in the Public Health Act, 1902, the Dairies <sup>Application of Acts to shires.</sup> Supervision Act, 1901, the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, or in the Noxious Trades Act, 1902, to a local authority or to a municipality or its council, or to an officer of such authority, municipality, or council, shall apply to a shire or its council, or the officer of a shire or its council.

## PART II.

## CONSTITUTION OF SHIRES.

## DIVISION 1.—CONSTITUTION AND NAMING.

5. (1) The Governor by proclamation shall, within six months <sup>Division of State into shires.</sup> after the passing of this Act, divide the whole of the State, exclusive of the city of Sydney or of any existing municipality or of any area added in pursuance of this Act to any such municipality, or proposed to be so added, and exclusive of the western division, and exclusive of Lord Howe Island and the islands in Port Jackson, and such other islands as the Governor may, in his discretion, consider should be excluded, and exclusive of the Quarantine Station on the North Head of Port Jackson, into shires, and shall constitute under this Act and define the boundaries of each shire, and shall give names to shires :

Provided that anything done under this subsection before the commencement of this Act shall not take effect until such commencement.

(2) The Governor may within six months after the passing <sup>Additions to municipalities.</sup> of this Act, by proclamation, declare that any area described in the proclamation is, and the same shall thereupon be, added to and form part of the municipality mentioned in the proclamation ; and upon the commencement of this Act the provisions of the Municipalities Act, 1897, shall apply as if such area had been added under the said Act :

Provided that no such area shall be so added if the area form a continuous area with a proposed shire and objection be made in the prescribed way by a majority of the electors who would be entitled to a vote if the addition were so made : Provided further, that if objection be so made, the area shall be added to the adjoining shire.

(3) A shire, or any part thereof, may, by the Governor, be <sup>Shire may be constituted a municipality.</sup> constituted a municipality or a municipal area under the law then in force, and shall thereupon cease to be or be part of a shire ; and such law shall apply to such municipality or municipal area as if the same were constituted thereunder.

The boundaries of such municipality or area, and the name thereof, may be fixed by the Governor by proclamation. (4)

*Local Government (Shires).*

Council  
incorporated.

(4) The council for the time being of any shire shall, under the name given to it, be a body corporate with perpetual succession and a common seal.

Alteration of name.

(5) The Governor may, on the request of the council, at any time alter the name of any shire and of its council.

(6) On receipt of a joint request from two or more councils of adjoining shires, the Governor may amalgamate such shires or adjust or alter their boundaries.

DIVISION 2.—DIVISION INTO RIDINGS.

Division into  
ridings.

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

Governor may  
make or alter  
divisions.

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

Notice.

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

DIVISION 3.—PROVISIONAL GOVERNMENT.

Orders for  
provisional  
government of areas.

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

Temporary councils.

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

Continuance of  
administration of  
Public Works  
Department.

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

*Local Government (Shires).*

## PART III.

## ENDOWMENT.

8. (1) The Governor shall, on or before the thirty-first day of <sup>Endowment for first</sup> December, one thousand nine hundred and six, and every three years <sup>three years.</sup> thereafter, by proclamation, declare the class within which each shire shall be placed respectively; and in determining the class of each shire the following matters shall be taken into consideration—

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

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

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

(3)

*Local Government (Shires).*

Treasurer to pay  
endowments from  
Consolidated  
Revenue.

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

Endowment may be  
withheld if statistics  
not furnished;

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

If rates not enforced.

(5) The Minister may, if he consider that the council of any shire has neglected to take steps to enforce the payment of rates, withhold part or the whole of the endowment of such shire.

Endowment  
withheld two years  
forfeited.

(6) If in accordance with any provision of this Act any endowment or part of an endowment is withheld for a period exceeding two years, such endowment or such part of an endowment shall be forfeited.

## PART IV.

## POWERS AND DUTIES OF COUNCILS.

## DIVISION 1.—GENERAL POWERS AND DUTIES.

Powers of council

9. (1) On and after the constitution of a shire the council shall have and may exercise the powers and perform the duties contained in Chapter I of Schedule One, and such additional powers as the Governor may confer on the council.

Schedule One.

Method of acquiring  
additional powers.

(2) A council may, from time to time, acquire the right to exercise any or all of the powers contained in Chapters II and III of Schedule One, in the following manner:—

- (a) A resolution must be passed by an absolute majority of the council specifying the powers required, and alleging that they are necessary for the good government of the shire. Such resolution must be confirmed by the vote of a majority of the members of the council present at a subsequent meeting called as prescribed.
- (b) An application in the form prescribed must be made by the president on behalf of the council to the Governor, asking that the specified powers, or some of them, be conferred on the council. Such application shall be notified by the Governor in manner to be prescribed.
- (c) The Governor may grant or refuse the application in whole or in part, but on receipt of a petition signed by not less than

*Local Government (Shires).*

than one-sixth of the electors, may direct that a poll of the electors of the shire shall be taken as to whether all or any of the powers applied for shall be conferred on the council.

- (d) The Governor shall prescribe the questions to be submitted at the poll.
- (e) Such poll shall be taken in accordance with the regulations.
- (f) The result of any poll so taken shall be communicated to the Governor.
- (g) When the Governor confers any such powers he shall make an order accordingly, which shall be proclaimed.

(3) The powers and duties contained in Schedule One, so far as they relate to public places in the shire, shall, subject to this Act, be exclusively exercised by the council, and the provisions of the Acts mentioned in Schedule Two shall not apply to such public places unless such places are excepted by the Governor from the jurisdiction of the council.

**10.** In the exercise by a council of the powers and duties conferred and imposed on it by or under this Act, the following provisions shall apply:—

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

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

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

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



*Local Government (Shires).*

- road, bridge, ford, dam, jetty, or other like structure, or to divert, interfere with, or interrupt the course of any river or creek.
- Compensation for materials taken. (II) The council shall pay to the owner of any land the value of any materials taken therefrom, and shall pay to the owner and occupier of any land compensation for any damage they may sustain through the exercise of any of the powers conferred by this section.
- New public roads—widening, raising, lowering roads. (d) A council may within its shire open new public roads, divert any road, alter or increase the width of any public road, or cause the level or surface of any public road or footpath to be raised or lowered. Any land required for the purpose of carrying out the provisions of this paragraph shall be acquired under the Public Roads Act, 1902. Any sum paid as compensation or as part compensation for such land, with interest thereon and all necessary expenses incidental to the appropriation, exchange, or resumption thereof shall be provided by the council. The Governor shall, before authorising the appropriation, exchange, or resumption, satisfy himself that the council has made such provision.
- Power to close road. (e) For such time as is necessary for making, improving, maintaining, repairing, altering, or increasing the width, or causing to be raised or lowered the level or surface of any public road within any shire, the council may close such road and stop all traffic thereon.
- Temporary roads. (f) A council may make a temporary road through any land within its shire which is not the site or curtilage of a house or a garden, lawn, yard, court, park, plantation, planted walk, avenue, or nursery for trees for use as a public highway during such time as a road is closed under the preceding subsection.
- Fencing temporary roads. (g) Where a council makes a temporary road as aforesaid through any fenced land, it shall erect a sufficient fence on such road, and shall keep such fences in repair during the time such road is used.
- Recovery of half cost of forming and guttering footways. (h) Where a council has kerbed, paved, or asphalted the footway or guttered the carriage-way of a public street in a village or town, it may, in any court of competent jurisdiction, recover from the owner of any land opposite to and on the same side of the street as the place where the said work has been done a sum, to be fixed by the council, not exceeding one-half the expense of the said work.
- Encroachments on public roads to be removed. (i) If before or after the setting out and marking of the footway of a public road in any shire, any erection or building, or any hedge or other fence, or any drain or watercourse, has, after the commencement of this Act, been constructed or made so

as

*Local Government (Shires).*

- as to encroach on such road, or obstruct the free use thereof, the council may cause notice to be placed upon such encroachment or obstruction, or on the land immediately adjoining thereto, and also to be published in the Gazette, and twice in some newspaper circulating in the shire, requiring that such encroachment or obstruction be removed within sixty days after the date of such notice.
- (j) If such encroachment or obstruction is not effectually removed within the said time the council may cause it to be removed.
- (k) No road or part of a road shall be closed, nor shall the position of a reserved road within an incomplete purchase from the Crown or conditional lease be altered within a shire in pursuance of the Public Roads Act, 1902, unless the consent in writing of the council of the shire has been first obtained. Power to close road.
- (l) A council may, with the approval of the Governor, lease to any person or permit any person to use or occupy any of its buildings, works, or undertakings. Power to lease buildings, wharfs, markets, &c.
- (m) A council may, in lieu of directly undertaking the performance of any of its duties under this Act, enter into a contract with any person or persons for such performance. Power to contract for public services.
- (n) A council may do any acts not otherwise unlawful, which may be necessary to the proper exercise and performance of its powers and duties. Power to do any necessary acts.
- (o) A council may plant trees in any public road or street in its area, and erect tree-guards or fences to protect them, and may set apart and fence portions of public roads or streets as tree reserves, provided that in such cases the portion of such road remaining available for public traffic, including footpaths, shall in no case be thereby reduced to less than forty-four feet, and that such reserves shall be so arranged as not to interfere with reasonable access to premises. Tree planting. Tree reserves.
- (p) Any references in the Public Roads Act, 1902, to a municipality or to the council of a municipality shall be deemed to refer also to a shire or its council. References.

*Impounding.*

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

- (a) the establishment of pounds;
- (b) the appointment of poundkeepers;
- (c) the determination of the amount of security to be given by each poundkeeper;
- (d)

*Local Government (Shires).*

- (d) the monthly inspection of the pound-book and instructions ;
- (e) the receiving of such book and instructions from each poundkeeper on his ceasing to hold office as such ; and
- (f) the fixing of charges for the care and sustenance of animals impounded.

Poundkeeper.

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

Existing pounds and poundkeepers.

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

Animals may be impounded on any day of the week.

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

*Police Offences Act.*

Police Offences Act.

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

**12.** (1) A council shall alone in and for its area have, exercise, and incur the following powers and obligations which, by the Police Offences Act, 1901, may, or are required to be exercised and incurred by the police magistrate, or by other justices of the peace, or by the Surveyor-General or person deputed by him, or by any magistrate or municipal officer of any town, or other person acting under the authority of the Governor, or by the police magistrate with the assistance of the bench of magistrates, or by the Colonial Treasurer or such other officer as the Governor may authorise respectively, that is to say, the powers conferred by the said Act for or in respect of—

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

*Local Government (Shires).*

- (h) causing footways to be levelled and removing or abating any flagging, steps, or other injury or obstruction therefrom;
- (i) the receiving of notice from any person desirous of flagging, paving, gravelling, or putting a kerbstone to the footway in front of his house or premises, and the giving of directions as to the length, breadth, height, slope, and inclination of such footway;
- (j) the framing and alteration, with the Governor's approval, of rules and regulations for the holding of markets, and the preservation of order and cleanliness therein, and of enforcing such rules and regulations by fines or penalties; and
- (k) the farming by public auction of any stalls or standings in any market-house.

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

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

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

(4) No police magistrate or justice of the peace or other officer or person as aforesaid shall be required or empowered to do any act or give any notice or direction or information, or receive any notice as hereinbefore mentioned, as to any of the said matters or things existing, arising, or occurring within the limits of any area.

Certain powers taken away from justices.

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

Disposal of fines and fees.

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

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

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

Metropolitan Traffic Act.

DIVISION

*Local Government (Shires).*

## DIVISION 2—WORKS ON BOUNDARIES.

Boundary roads, bridges, and ferries to be maintained at joint expense of adjoining areas.

**14.** (1) Where one side of a public road or one bank of a river, stream, or watercourse lies in one area, and the other side of the public road or the other bank lies in another adjoining area, or where the centre of a public road, river, stream, or watercourse forms a common boundary of the areas, the councils of such areas shall unite in making or repairing such public road, and in building, providing, maintaining and managing necessary bridges, ferries, and other works over or upon such river, stream, or watercourse, so far as the same follows the boundaries or the common boundary of the respective areas.

Agreements by councils.

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

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

The enforcing of orders.

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

Application of section.

(4) This section shall apply to boundary roads, rivers, streams, and watercourses where a shire adjoins a shire or an existing municipality or a municipality constituted under this Act, and for that purpose the word "area" means a shire or such municipality.

## DIVISION 3.—ACQUISITION AND USE OF LAND AND WORKS.

Council may acquire lands and buildings for lawful purposes.

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

Council may use land and buildings for those purposes.

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

**16.**

*Local Government (Shires).*

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

Resumption by  
Government on  
petition of council.

(2) In such case the Minister shall appropriate or resume the said land by Gazette notification under Division I of Part V of the Public Works Act, 1900; and thereupon shall notify that the land is, and thereupon it shall be, vested in the council as the body corporate of the shire. Such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of the said Act.

Land vested in  
council.

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

Compensation.

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

Basis of  
compensation.

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

Rate of interest.

## DIVISION 4.—NATIONAL WORKS.

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

National works.

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

## PART V.

## COUNCILS.

## DIVISION 1.—CONSTITUTION AND ELECTION OF COUNCILS.

*The council and its president.*

- Shire governed by council. **18.** (1) Every shire shall be governed by a council, the members of which shall be called councillors. One of the councillors shall be president, and shall preside when present at meetings of the council. The respective ridings of a shire shall have equal representation on the council.
- Resignation. (2) A president or councillor may resign his office.
- Constitution of first council. (3) The first council of a shire shall consist of six members :  
Provided that such number of members may, for the purposes of any later election, be increased to nine by resolution of the council.
- Penalty for default of president, or councillor. (4) If any president, or any councillor, neglects or refuses to do any thing which by law he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.
- Remuneration of president. (5) A council may, out of the general fund of the shire, grant an annual allowance to any person holding the office of or acting as its president for his expenses. The maximum amount of such allowance shall be specified in the ordinances, and shall not exceed fifty pounds.
- Maximum. (6) A council may out of such fund pay to its members reasonable allowances towards their expenses in travelling to and from meetings of the council, or on the business of the council.
- Expenses of councillors. (7) A council may appoint one of its members to act as deputy president during such time as the president may be temporarily absent from the shire, or from his duties on account of illness or other sufficient reason. The deputy while so acting shall have the powers, authorities, duties, and liabilities of the president.
- Deputy president. (8) If a council fail to elect a president within the period prescribed the Governor may appoint some member of the council to be president.
- Failure to elect.

*Election of council.*

- Election of councillors. **19.** (1) Councillors shall be elected for the respective ridings of the shire by the electors of such ridings.
- Nomination and election. (2) Nominations shall be made in the prescribed manner, and where the number of candidates nominated does not exceed the number of councillors to be elected the persons so nominated shall be deemed to have been elected : otherwise there shall be a ballot.
- Conduct of elections. (3) The election of councillors shall be conducted by a returning officer to be appointed as prescribed.
- Expenses of election. (4) The expenses incurred by a returning officer in connection with an election shall be repaid to him out of the general fund of the shire,

*Local Government (Shires).*

shire, and may be recovered in a summary way before two justices: Provided that, in the case of a first election, such expenses may be paid from the Consolidated Revenue Fund, and shall, if so paid, be deducted from any endowment which may subsequently become due to the shire.

- (5) No such election shall be invalid by reason only of—
- (a) any formal defect or error in or relating to the election, if the election was held substantially as prescribed;
  - (b) any defect or want of title of the returning officer if he has acted as such; or
  - (c) the fact that the election was held at a time other than that appointed or prescribed;

Election not to be invalidated for defect of title, &c.

and if the Governor proclaims that any such defect or error does not invalidate any such election such proclamation shall be conclusive as to the matter stated therein.

(6) Sections eighty-nine, ninety, ninety-one, one hundred and two, one hundred and seven, one hundred and eight, and one hundred and nine of the Parliamentary Electorates and Elections Act, 1902, shall, mutatis mutandis, apply to elections of councillors.

Application of provisions of Parliamentary Electoral Act.

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

Penalties for forging nomination papers.

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

First election of council.

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

Extraordinary elections.

(3) All councillors shall retire from office on the last Monday of January, one thousand nine hundred and eight, and on the same day in every second year thereafter; and elections of councillors shall take place on the following day:

Term of office and general elections.

Provided that if it appears to the Governor to be impracticable or inconvenient to hold any election on any day prescribed, he may by proclamation appoint any day in the month of February for holding such election. In such case the outgoing councillors shall remain in office until the day next preceding the day of the election.

Governor may appoint another day for holding of elections.

(4) A retiring councillor shall, if otherwise qualified, be eligible for re-election.

Retiring member eligible.

*Election of president.*

21. (1) A president shall be elected by the council from its members in the manner prescribed.

Election of president.



*Local Government (Shires).*

Time for election on first election of council.

(2) Within fourteen days after the election of a council on the constitution of a shire, or on the first due constitution of the council after the shire has been proclaimed a defaulting shire, a president shall be elected.

Periodical retirement.

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

Periodical re-elections.

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

Extraordinary vacancies.

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

**DIVISION 2.—QUALIFICATIONS AND DISQUALIFICATIONS.**

*Qualification to vote.*

List of electors.

**22.** (1) A council shall each year, on the day and in the manner prescribed, cause a list to be made of the names of the persons who appear to have the necessary qualification of electors as occupiers or owners:

Provided that, for the purposes of the first election of a council, on the constitution of a shire, the list shall be made by the temporary council.

Qualification as occupier.

(2) Any natural born or naturalized British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "occupier," and to be enrolled as an elector if he—

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

Provided that only one of such joint occupiers shall be entitled to be placed on the roll, unless the premises jointly occupied are of the yearly value of twenty pounds or upwards, in which case such number of the said occupiers shall be entitled to be placed on the roll as, when the said yearly value is divided thereby, gives a quotient of five pounds, with a remainder of less than five pounds. The joint occupiers who shall be so entitled shall be determined by a majority of the occupiers, evidenced by agreement signed by such majority, and delivered to the clerk, or, failing such agreement, according to the alphabetical order of the surnames of the occupiers:

(b)

*Local Government (Shires).*

- (b) on such day is the manager, secretary, or director of a public company, body corporate, or one of a body of trustees which is in occupation as tenants as aforesaid of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; and—
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such occupation; or
- (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust; or
- (iii) on such day is the resident manager of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; or
- (c) has been continuously during such three months in joint or several occupation of any ratable land in the shire, by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same.

(3) Any natural born or naturalized British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "owner" and to be enrolled as an elector if he—

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

*Local Government (Shires).*

(4) The names on the list for the shire shall be entered on lists for the respective ridings of the shire, each person's name being entered on the list of each riding in which such person holds the qualification of occupier or has ratable land, as the case may be. Such lists, when revised and signed by the revision court, shall be the rolls of electors for the respective ridings. The rolls for the ridings of a shire shall together constitute the roll of electors for the shire :

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

Roll in force.

Prescribed declaration.

Person on roll to be elector and qualified to vote.

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

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

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

*Revision courts.*

Appointment of revision court.

Constitution of revision court.

Proceedings at revision.

**24.** (1) In each shire the Governor shall appoint a revision court annually to revise the lists prepared as aforesaid.

(2) A revision court shall consist of either a stipendiary or police magistrate or three justices.

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

*Qualification to be elected, and disqualification.*

Person on roll may be elected to council.

Disqualifications.

**25.** (1) Any person, male or female, whose name is on the roll of electors for a shire shall, if not disqualified, be eligible to be elected and to act as councillor of the shire.

(2) A person is disqualified for such office if—

(a) he has not prior to the seventh clear day before the day of nomination of candidates for such office, paid all sums due by him on such day to the council for rates or charges ;

(b)

*Local Government (Shires).*

- (b) he is a Judge of the Supreme Court or of any District Court ;
- (c) he is an officer on full pay or a non-commissioned officer or private in the naval or military service of His Majesty other than the citizen forces of the Commonwealth ;
- (d) his affairs are under composition with his creditors by any deed of assignment duly executed by him ;
- (e) he is an uncertificated bankrupt or insolvent ;
- (f) he has been convicted of felony, and has not received a free pardon or served his sentence ;
- (g) he is undergoing a sentence of imprisonment ;
- (h) he is of unsound mind ;
- (i) he holds any position or place of profit under or in the gift of the council ;
- (j) he is directly or indirectly by himself, or any partner, engaged or interested (other than as a shareholder in an incorporated company, association or partnership consisting of more than twenty members) in any contract, agreement, or employment with, by or on behalf of the council, except in a contract or agreement for or in relation to —
  - (i) the publication of advertisements in a public journal ;
  - (ii) the supply by the council of any water ;
  - (iii) the performance by the council of any work or services in connection with footways, roads, or sanitation.
  - (iv) permission granted by the council to occupy footways during the erection of buildings ;
  - (v) security for damage to footways or roadways ; or
  - (vi) any lease granted before his election of land belonging to or under the control of the council ;
- (k) he has for a period of at least three months been a debtor or creditor in an amount exceeding five pounds to an officer of the council or person with whom the council has entered into such contract as above mentioned.

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

Penalty for holding office after disqualification.

DIVISION

*Local Government (Shires).*

## DIVISION 3.—OUSTER OF OFFICE.

Rule or order ousting  
a person from office.

**26.** (1) Upon affidavit—

- (a) that any person declared elected to an office has been elected unduly or contrary to this Act; or
- (b) that any person disqualified for any office has been elected to or holds or acts in such office,

the Supreme Court, or a Judge thereof, or any District Court or Court of Petty Sessions having jurisdiction in the shire in which the election has been held, may grant a rule or order calling upon such person to show cause why he should not be ousted of such office:

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

Provided that no such rule or order for ousting any person as having been elected unduly or contrary to this Act shall be granted unless the application is made within three months from the declaration of election.

Order on return of  
rule.

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

Ouster.

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

(4) An appeal from any rule or order of a District Court or Court of Petty Sessions under this section on the ground that such rule or order is erroneous in law, may be made to the Supreme Court or a Judge thereof.

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

Any such appeal from a Court of Petty Sessions shall be made and determined in the same manner as an appeal from the determination of justices in the exercise of their summary jurisdiction.

## DIVISION 4.—DEFAULTING SHIRES.

Definition of a  
defaulting area.

**27.** (1) A shire shall, for the purposes of this Act, be deemed to be a defaulting shire—

- (a) if there is in the shire no council or not sufficient councillors to form a quorum of the council, by reason of a failure to elect councillors at the time or within the period prescribed; or
- (b) if the requirements of this Act as to the making and levying of a general rate have not been duly carried out within the shire; or
- (c) if the council has ceased for six months to exercise its functions.

(2)

*Local Government (Shires).*

(2) The Governor shall at any time after any such default, by proclamation, appoint an administrator of the shire, and may in like manner at any time remove him. Such administrator shall have the powers, duties, and liabilities of the council, and shall be paid out of the general fund of the shire such salary as the Governor may determine.

Appointment of administrator for defaulting area.

When an administrator is so appointed, the servants (unless specifically retained by the administrator) and the officers in the shire shall thereupon cease to hold office.

Council to cease to hold office.

(3) Provided that in case of a default described in paragraph (a) of subsection one of this section, the Governor, instead of appointing such administrator, may at any time by proclamation authorise an election of or appoint the requisite number of councillors.

Governor may authorise an election or appoint aldermen or councillors.

(4) At any time after the appointment of an administrator as aforesaid the Governor may, by proclamation, authorise the election of a new council on a day appointed in such proclamation. If at such election councillors are elected sufficient to form a quorum the Governor may, by proclamation, constitute such councillors to be the council of the area, and the powers and duties of the administrator shall cease.

Election of new council.

PART VI.

VALUATIONS AND RATES.

DIVISION 1.—RATABLE LAND.

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

Definition of ratable land.

- (a) commons, public parks, and public reserves not under lease;
- (b) cemeteries, public hospitals, benevolent institutions and buildings used exclusively for public charitable purposes;
- (c) churches and other buildings used exclusively for public worship, and free public libraries;
- (d) unoccupied Crown lands.

(2) All land vested in the Railway Commissioners of New South Wales, and not actually used for the purposes of the Government railways or tramways, or for purposes connected therewith, shall also be ratable.

DIVISION

*Local Government (Shires).*

## DIVISION 2.—LAND VALUES.

*Unimproved capital value.*Unimproved value  
land.

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

(2) (a) The unimproved capital value of land held for coal or shale mining purposes is a sum equal to fifty per centum of the gross value at the pit's mouth of the average annual output of coal or shale won from the land during the three years next preceding that during which the valuation is made; or, at the option of the council, such unimproved capital value shall be assessed under subsection one of this section.

(b) The unimproved capital value of land held under gold-mining, gold-dredging, or other mineral or mining lease or license, or other mineral holding, from the Crown (except for coal or shale mining purposes) is a sum equal to forty per centum of the fair average annual gross value of the total output (without deducting the cost of winning the same, or of carriage or of treatment of the ore or other charges) of gold or other mineral (except coal or shale) won from the land during the three years next preceding that during which the valuation is made; or, where the land is not being principally worked as a mine, the capital value of the property, with the improvements thereon (if any), 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 lessees or licensees solely in opening up such land.

(c) Where a mine is situated partly in one shire and partly in another or others, the valuers of such shires shall confer and 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 such valuers cannot agree upon such apportionment, they shall refer the question to the Government Land Valuer, whose decision shall be final.

Valuation of Crown  
land held under  
lease or license.

(3) The unimproved capital value of Crown land held under any other description of lease from the Crown, or under any other terms of occupation at a rent, or under license from the Crown under the laws

*Local Government (Shires).*

laws relating to the occupation and use of Crown lands, including homestead selections, is a sum equal to twenty times the amount of the rent payable to the Crown under the lease or license during the year next preceding that during which the valuation is made.

(4) Where mines are located on private land the unimproved value of such land shall be assessed under the provisions of subsection one or subsection two aforesaid at the option of the council.

DIVISION 3.—VALUATIONS.

*Manner of valuation.*

**30.** (1) A council shall, in the first year after its constitution and in every third year thereafter, cause valuation to be made in respect of all ratable land in its shire: Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895, as the first valuation of unimproved capital value under this Act. Valuations shall be made for every shire.

(2) Every such valuation shall remain in force until a fresh valuation is made, and shall be in the form prescribed. Valuation in force.

(3) Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any triennial period the whole or any part of the valuations made or adopted during the next preceding triennial period and in force at the close thereof, when such valuations are considered by the council to be still just and equitable. Valuation of preceding year may be adopted.

(4) Provided also that a fresh valuation may be made in any particular case when land is sold. Fresh valuation.

(5) Notice of valuation shall be given as prescribed, to the owner, or, in the case of Crown land held under lease or license, to the holder of such lease or license, or, in the case of railway land occupied by a tenant under lease, oral or written, to such tenant, and, in the case of other Crown land, to the Treasurer. Notice of valuation.

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

**31.** (1) Such valuation shall be made by one or more competent valuers appointed by the council as prescribed. Every valuer shall before acting make a statutory declaration before a justice that he will make such valuation impartially and truly, and shall transmit such declaration to the president, under seal. Appointment of valuers. Declarations by valuers.

(2) For the purpose of making such valuation every valuer— Powers of valuers.

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

(b)



*Local Government (Shires).*

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

*Appeal from valuation.*

Appeal.

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

- (a) Where such valuation does not exceed ten thousand pounds, to the nearest court of petty sessions.  
 (b) Where such valuation does exceed the sum of ten thousand pounds, to the nearest district court.

Such court may amend the valuation appealed from.

(2) The Governor may make regulations for the hearing of such appeals.

(3) Subject to the next following subsection, the decision of any such appeal court shall be final and conclusive as to the amount of such assessment.

(4) Any person dissatisfied with the decision of such appeal court as being erroneous in point of law with relation to the principle on which the valuation was or ought to have been made, may, within sixteen days after such decision, apply in writing to such court to state and sign a case setting forth the facts and the grounds of its decision so far as they relate to matters of principle affecting the valuation of the land.

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

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

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

The Supreme Court may make rules and orders regulating its practice in proceedings under this subsection.

DIVISION

*Local Government (Shires).*

## DIVISION 4.—RATES.

*General rates.*

**33.** (1) A council shall make and levy a general rate of not less than one penny in the pound and not more than two pence in the pound upon the unimproved capital value of all ratable land in its shire. General rate levied on unimproved capital value.

Such rate shall be made and levied in and for each year, commencing the first day of January: General rate to be levied each year.

Provided that on representation from any council that a general rate of one penny in the pound on such unimproved capital value is more than sufficient to meet the requirements of its shire, the Governor may in his discretion allow the reduction of such rate below one penny in the pound. Reduction of general rate below one penny in the pound.

(2) The Governor shall forthwith, on the council of a shire imposing a rate on such unimproved capital value, proclaim that the operation of the enactments mentioned in Schedule Three are to the extent therein mentioned suspended in such shire; and thereupon such suspension shall have effect. Suspension of land tax enactments. Schedule Three.

(3) The amounts of the general rates made and levied upon the ratable land in the several ridings need not be the same, but every general rate in respect of land within a riding shall be the same. General rate need not be the same in every riding of an area.

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

*Recovery of rates.*

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

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

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

(4)

*Local Government (Shires).*

Private agreement between owner and occupier.

(4) Nothing in this Act shall affect any private agreement between the owner and occupier with respect to the ultimate liability of either to pay any specified rates or arrears of rates.

Unpaid rates to be a charge upon the land.

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

Rates in arrear for six months to bear interest.

(6) Any rates due or to become due to a council and owing for a period of six months shall bear interest from their due date until payment at the rate of four per centum per annum calculated at simple interest:

Interest recoverable as rates.

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

Vendor of ratable land to notify sale.

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

Recovery of rates from occupier.

**35.** Where rates are due and unpaid in respect of any ratable land within a shire, the council may recover from any person who is or has been in occupation of such land the amount of any such rates which have become due during such occupation, together with interest thereon, upon proving—

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

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

Proceedings to recover rates.

**36.** (1) In any proceeding by a council to recover the amount of any rate from the owner or lessee or tenant, as the case may be, or to prove under the last preceding section that any rate is due and payable by the owner or lessee or tenant, as the case may be, the plaintiff must prove—

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

(2)

*Local Government (Shires).*

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

Entry in rate-book to be evidence.

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

Defences available.

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

Question of title not to be raised.

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

Council to sue for certain rates in arrear.

*Enforcement of rates on unoccupied land.*

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

Council may take possession of unoccupied land for arrear of rates.

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

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

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

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

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

Application of moneys.

(4)

*Local Government (Shires).*

Persons entitled may demand land within specified period.

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

Council shall yield possession.

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

Council may retain land.

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

## PART VII.

## FUNDS, ACCOUNTS, AND AUDIT.

## DIVISION I.—SHIRE FUNDS.

*General fund.*

Accounts carried to general fund.

**39.** (1) There shall be a general fund for each shire, to which shall be carried the following revenues of the council—

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

Purposes to which general fund may be applied.

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

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

(vi)

*Local Government (Shires).*

- (vi) the construction and maintenance of tanks and public watering places ;
- (vii) the erection and maintenance or the hire of council offices ;
- (viii) the maintenance of permanent and temporary commons, parks, stock routes, and camping reserves ;
- (ix) the watering of streets ;
- (x) the carrying out of any service required by this Act to be performed by the council and not payable out of any other fund of the council ;
- (xi) the general expenses of the council in carrying out the provisions of this Act ;
- (xii) such other purposes as the Governor may, from time to time, proclaim.

DIVISION 2.—ACCOUNTS AND AUDIT.

*Books and accounts.*

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

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

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

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

*Audit.*

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

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

(3)

*Local Government (Shires).*

Governor may cancel appointment of an auditor and appoint another.

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

Governor may appoint auditors.

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

Appointment of examiners of accounts.

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

Examiners to have power to disallow items.

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

Surcharge.

Appeal against surcharge.

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

Powers of auditors and examiners.

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

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

Enforcement of summons.

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

*Local Government (Shires).*

## PART VIII.

## ORDINANCES AND REGULATIONS.

## DIVISION I.—ORDINANCES.

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

Matters which may be dealt with by ordinances.

## (A)

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



*Local Government (Shires).*

## (B)

Relating to matters  
in Part V.

- (xviii) the regulation of the proceedings of councils and their committees;
- (xix) the quorum of councils;
- (xx) the appointment and the powers of committees of councils;
- (xxi) the manner of conducting polls of electors;
- (xxii) the making of lists and rolls of electors; and the form of declaration which may be required of a person claiming enrolment;
- (xxiii) the inspection, revision, and notification of such lists and rolls; and the appointment and proceedings of revision courts;
- (xxiv) the proof of the contents of such lists and rolls;
- (xxv) the nomination of candidates for election to a council;
- (xxvi) the times and the manner of elections, and the declaration of the results thereof;
- (xxvii) the appointment of electoral officers and clerks, and their powers, duties, and liabilities;
- (xxviii) the appointment and regulation of polling-places;
- (xxix) the enforcing of order at polling-places or at revision courts by the arrest of persons offending, or reasonably suspected of offending, against this Act or the ordinances, or otherwise;
- (xxx) the election of presidents and the appointment of their deputies;
- (xxxi) the vacating of the offices of president and councillor;
- (xxxii) elections to fill extraordinary vacancies in councils;

## (C)

Relating to matters  
in Part VI.

- (xxxiii) the preparation, sealing, and inspection of rate-books, and the amendment thereof; the time within which rates shall be made, notices be given as to rates, and the regulation of all other matters relating to rating;
- (xxxiv) the appointment and the powers and duties of valuers;
- (xxxv) the procedure as to valuations and appeals against valuations, and the duties of the council and its officers in relation to such appeals;
- (xxxvi) the times, places, and forms for hearing such appeals;
- (xxxvii) lands in respect of which rates are in arrear;
- (xxxviii) notices, documents, and forms;

## (D)

Relating to general  
matters.

- (xxxix) providing for the service of notices required or authorised to be given under this Act or the ordinances;
  - (xl) providing for matters which by this Act may be prescribed;
- (xli)

*Local Government (Shires).*

- (xli) generally for carrying out the provisions of this Act, or of any Act administered by a council, and for enforcing and securing the observance thereof; and
- (xlii) relating to any matter above mentioned although the same or a similar matter may have been already provided by the Police Offences Act, 1901.

(2) Every such ordinance shall have the force of law when published in the Gazette, but not sooner or otherwise: Ordinances to have the force of law. Provided that any ordinance so published before the commencement of this Act shall not have effect until such commencement.

45. (1) A council may, subject to the provisions herein contained, alter or rescind any such ordinance so far as applicable within its shire, and may also (whether the Governor has or has not made ordinances to be in force in the said shire) make new ordinances for any of the purposes for which ordinances applicable to it may be made. Council may alter, amend, or rescind any ordinance, subject to approval of Governor.

(2) No such alteration, rescission, or new ordinances, shall be made by a council, unless passed by a majority of at least two-thirds of the members present at a meeting of the council specially called for that purpose. Two-thirds majority required.

(3) Such alteration, rescission, or new ordinances on being so passed shall be notified by the council in the Gazette, and attention shall be drawn to such notice by advertisement published twice in some newspaper circulating generally in the shire. Notification.

(4) Within twenty-one days after the date of the first publication of such advertisement any electors, being not less than one-tenth in number of the electors of the shire, may, by writing signed by them, delivered to the president or clerk, demand that the whole, or any specified part of such alteration, rescission, or new ordinances, be submitted to a poll of the electors of the shire, and the matter shall thereupon be submitted by the council to such poll as prescribed: Poll may be demanded.

(5) Provided that a poll may not be demanded in respect of— Poll may not be demanded.

- (a) new ordinances which are substantially the same as ordinances then in force in every part of some other shire; or
- (b) an alteration which makes an ordinance substantially the same as an ordinance then in force in every part of some other shire,

if attention has been called to such fact in the Gazette notice mentioned in the last preceding subsection.

(6) The decision of the majority of electors voting at the poll shall determine whether the alteration, rescission, or new ordinances submitted to the poll may come into force; and subject to such decision, or if no poll is demanded, the clerk shall forward two copies of the alteration, rescission, or new ordinances (omitting such as are negatived by the poll) to the Minister. Proposed ordinances to be sent to Minister.

(7)

*Local Government (Shires).*

Minister to report  
to Governor.

(7) The Minister after correcting any minor or verbal errors, shall transmit such alteration, rescission, or new ordinances to the Governor with a report stating whether they are consistent with the principles of law and equity, and are within the powers of the council, and if there is any reason why they should not be made.

Allowance by  
Governor.

(8) The Governor may, after receipt of the report of the Minister, allow the alteration, rescission, or new ordinances, or may disallow them in whole or in part, and for that purpose may make such amendments as may seem expedient or fit; and the Minister shall report to the clerk the result of the Governor's decision.

Passing of ordinances  
by council.

(9) Such alteration, rescission, or new ordinances, if and so far as they are allowed by the Governor, on being passed by a simple majority of the council at a special meeting called for that purpose, and on being sealed with the common seal of the council and advertised in the Gazette in the prescribed manner, shall have the force of law.

## DIVISION 2.—REGULATIONS.

Regulations made by  
the Governor.

**46.** (1) The Governor may at any time after the passing of this Act make regulations relating to—

- (i) the appointment of officers and servants by the Governor ;
- (ii) accounts and audit and the duties of examiners of accounts ;
- (iii) the form in which the accounts of councils shall be kept, and the periodical publishing of such accounts ;
- (iv) returns to be furnished periodically by officers or clerks to the Federal or State Government Statistician or other persons ;
- (v) the opening to use by the public of new roads through private land and the acceptance of the care, construction, and management of such roads ;
- (vi) in the case of a proposed addition to a municipality under subsection two of section five, the manner of ascertaining the number of electors who would be entitled to vote in respect of the area proposed to be added, and who make objection to such addition ;
- (vii) notifications of the elections of officers, appointments of servants and auditors, and of other matters, and the service of notices required by the regulations ;
- (viii) empowering and directing councils jointly or severally to appoint and employ servants, including a shire clerk and a shire engineer, and such other servants as may be prescribed, and prescribing the qualifications which must be possessed by such servants, the manner of appointment and the conditions of employment ;
- (ix) the disqualification of presidents and councillors from voting at meetings of the council in cases in which they or any of their relations are interested, specifying the degree of relationship and the nature of the interest necessary to create the disqualification ;

(x)

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*Local Government (Shires).*

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- (x) the hearing of objections and appeals;
- (xi) matters which by this Act may be prescribed by regulations;
- (xii) all such other matters as the Governor may deem necessary for carrying this Act into effect, and for the observance thereof.

(2) Every such regulation shall have the force of law when published in the Gazette, but not sooner or otherwise: Provided that any regulation so published before the commencement of this Act shall not have effect until such commencement.

DIVISION 3.—PENALTIES AND EVIDENCE.

47. (1) By any ordinances or regulations the Governor or a council may impose a penalty for any breach thereof, and may impose a maximum and minimum penalty; every such penalty shall be paid to the general fund of the shire: Provided that such penalty shall not exceed fifty pounds, and such ordinances or regulations may provide, in addition to any such penalty, that any expense incurred by a council in consequence of any such breach or in the execution of any work directed by any such ordinances or regulations to be executed by any person and not so executed, shall be paid by the person committing such breach or failing to execute such work.

Penalties for breaches of regulations or ordinances.

(2) The production of the Gazette containing any ordinance or regulation purporting to be made, approved, and published in pursuance of this Act shall in any legal proceeding be sufficient evidence that such regulation or ordinance has been so made, approved, and published.

Production of Gazette to be sufficient evidence.

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PART IX.

SUPPLEMENTAL AND GENERAL.

*Appointment of shire engineers.*

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

Appointment of assistant engineers to be shire engineers.

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

- (a) The council or councils shall fix the salary for such shire engineer.
- (b) The council or councils shall, within the time prescribed by the regulations, offer the appointment to some person who was, at the commencement of this Act, a district assistant engineer employed in the area of the shire or shires of such council or councils,

*Local Government (Shires).*

councils, or such of his assistants as may be certified by the Minister to be suitable; or, with the consent of the Minister, may offer the appointment to any other district assistant engineer, or any of his assistants.

- (c) if the offer is accepted, any rights which the district assistant engineer or his assistant may have to any pension, gratuity, or refund payable out of the Consolidated Revenue Fund on the abolition of his office in the public service shall be adjusted, but the payments in respect thereof shall not be made until he bona fide retires from the service of the shire or shires.
- (d) If the offer is made and is not accepted, the council or councils may proceed to make the appointment in accordance with the regulations in that behalf.
- (e) If the offer is not made within the time prescribed as aforesaid the Governor may appoint a shire engineer.

*Evidence.*

Entry in minute book to be evidence.

**49.** (1) Every entry in the minute or other book purporting to be a minute of the business transacted at a meeting of a council or committee, and to be signed by the president or chairman of the council or committee at the meeting of such council or committee held next after such first-named meeting, shall be prima facie evidence that such business as is therein recorded was transacted at such meeting, and that such meeting was duly convened and held.

Evidence of constitution of area.

(2) The production of the Gazette containing a proclamation constituting a shire shall, in all proceedings, be conclusive evidence of the legality of such constitution.

*Proclamations and notifications.*

Governor may alter, vary, or rescind proclamation.

**50.** Any proclamation or notification under this Act may, by a like proclamation or notification, be altered or rescinded: Provided that such alteration or rescission shall not affect anything done before the publication of such subsequent proclamation or notification under or by virtue of the proclamation or notification so altered or rescinded.

*Offences.*

Report of breaches of this Act and arrest of offenders.

**51.** The following provisions shall apply in respect to offences under this Act:—

- (1) It shall be the duty of a member of the police force who finds a person committing a breach of this Act, or of any ordinance, to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person as soon as conveniently may be to the clerk.

(2)

*Local Government (Shires).*

- (2) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a name or place of abode which in the opinion of the member of the police force making the demand is false, may, without any other warrant than this Act, be apprehended by him and taken before any court of summary jurisdiction, there to be dealt with according to law. Offenders may be arrested without warrant.
- (3) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding ten pounds. Penalty for refusing name and address.
- (4) Any person who wilfully obstructs the Governor or Minister or a council, or any person acting under the authority of the Governor or Minister or a council, in the performance of anything which the Governor or Minister or the council or such person is empowered or required by this Act to do, shall be liable to a penalty not exceeding ten pounds. Penalties for wilful obstruction.
- (5) When any matter or thing is by this Act, or by order, proclamation, notice, made under the authority thereof, directed or forbidden to be done by any person, and such person neglects or refuses to carry out or contravenes such direction or prohibition, he shall, if no other penalty is provided, be liable to a penalty not exceeding twenty pounds. Offences against Act.

*Proceedings of council.*

52. No proceedings of a council or of any committee thereof, or of any person acting as president, or councillor, shall be invalidated by reason of any defect in the appointment or election or of any disqualification of any councillor or of any such person, or by reason of there being any vacancy in the council or committee at the time of such proceedings. Proceedings not to be invalidated.

*Inquiries.*

53. The Governor or the Minister may appoint any officer of the Public Service to make inquiry as to any matter relating to the administration of this Act. Such officer, and any person to whom under this Act any matter may be referred, shall have the powers of a Commissioner under the Royal Commissioner's Evidence Act, 1901, and the provisions of the said Act shall apply to and in relation to any such officer or person in conducting any such inquiry or reference. Officer may be appointed to hold inquiries.

*Legal proceedings.*

54. (1) The president, or any person appointed by the council in that behalf, may direct any prosecution or legal proceedings to be taken for or in respect of any offence against this Act or any ordinance or regulation. Authority to direct prosecution.

(2)

*Local Government (Shires).*

Representation of  
council in legal  
proceedings.

(2) Any officer or servant of a council appointed by the council in that behalf may represent and act for the council in the conduct of any action, suit, or other legal proceeding in any court by, for, or on account of or against such council.

Expenses of council's  
representative.

(3) Such officer shall be reimbursed out of the general fund all damages, costs, charges, and expenses to which he may be put, or with which he may become liable by reason of his so acting.

Proceedings to be  
commenced within  
six months.

(4) No person shall be subject to any incapacity or disability, or be liable to pay any penalty or incur any forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after the happening of such incapacity or disability, or after such penalty or forfeiture has been incurred.

*Service of orders and notices.*

Service of orders and  
notices.

**55.** (1) Where it is provided by this Act that an order may be served upon any person requiring such person to do, or abstain from doing, anything, or where it is required by this Act, or any regulation or ordinance, that any notice be given or sent to any person, such order or notice may be delivered to such person personally or by sending it to his last known place of abode or business by messenger or by post.

(2) If such person is absent from New South Wales, the order or notice may be served upon or given or sent to his agent within New South Wales, instead of to such person, in any manner provided in the last preceding subsection.

(3) If such person is not known, or is absent from and has no known agent in New South Wales, and 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.

**SCHEDULES.****SCHEDULE ONE.****CHAPTER I.**

Section 9.

- (i) The care, control, construction, formation, fencing, maintenance, and management of all public places within the shire except
- (a) those vested in the Railway Commissioners;
  - (b) those which the Governor may except from the jurisdiction of the council, or which are excepted by this Act;
  - (c) public places, other than roads, bridges, or ferries, of which the care or management is by law vested in any public body other than the council;
  - (d) any road less than sixty-six feet wide laid out by any proprietor upon or through his own land;
  - (e)

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*Local Government (Shires).*

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- (e) any road so laid out of or more than sixty-six feet wide unless and until a plan of the road has been submitted to and approved by the council and the road has been put to the satisfaction of the council in such a state as may be prescribed by ordinance in that behalf ;
- (f) national works.
- (ii) The regulation of traffic in public places.
- (iii) The provision of lights at dangerous points on roads, and at points where roads cross or diverge ; and the lighting of streets in villages and towns.
- (iv) The making of provisions—
  - (a) for the prevention or mitigation of bush fires (including the organisation of bush-fire brigades) ; and
  - (b) for the prevention or mitigation of menace to the safety of life or property from floods (including the provision of flood boats and the organisation of flood brigades).
- (v) The leasing, acquisition, or erection and the maintenance of offices for the transaction of the council's business.
- (vi) The construction and maintenance of jetties and wharves.
- (vii) The construction and maintenance of streets and footpaths in villages and towns, including kerbing and guttering and tree-planting.
- (viii) The administration of the Public Watering Places Act, 1900, for which purpose the following provisions shall have effect within the shire when so provided by order of the Governor duly proclaimed—
  - (a) the powers and duties conferred and imposed on the Governor and the Minister by sections six, seven, eight, nine, and ten of the said Act, shall be transferred to and shall within the shire be exercised and discharged by the council ;
  - (b) a person duly authorised by the council shall have the powers conferred by section eleven of the said Act on a person duly authorised by the Minister ;
  - (c) section sixteen of the said Act shall be repealed.

CHAPTER II.

- (ix) The conservation, collection, removal, and disposal of night-soil and refuse, the construction and situation of privies, the degree of closet accommodation, and the construction and maintenance of drains and sewers in villages and towns.
- (x) The providing of water for villages and towns not supplied with water by the Metropolitan Board of Water Supply and Sewerage without reticulation (trunk supply main and stand-pipes only).
- (xi) The regulation and licensing of public vehicles, and of the drivers and conductors thereof.
- (xii) The regulation and licensing of the hawking of goods.
- (xiii) The care and management of parks and recreation grounds, public reserves, and commons, the care of which is not by or under any statute vested in other bodies or persons.

CHAPTER III.

- (xiv) The administration of the powers and duties of the Secretary for Lands conferred and imposed by the Public Gates Act, 1901.
- (xv) The administration of the powers and duties of justices in sessions conferred and imposed by the Native Dog Destruction and Poisoned Baits Act, 1901 : Provided no appeal shall be allowed under section eleven of that Act to quarter sessions from a decision of a council.

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SCHEDULE



*Sydney Water Supply Conduit Additional Works.*

Section 9.

SCHEDULE TWO.

2 Wm. IV No. 12	} Relating to roads, ferries, and tolls.
4 Wm. IV No. 11	
14 Vic. No. 65	
18 Vic. No. 15	
20 Vic. No. 38	
21 Vic. No. 8	
24 Vic. No. 12	
25 Vic. No. 7	
35 Vic. No. 2	
17 Vic. No. 16	
18 Vic. No. 22	} Maitland roads.
11 Vic. No. 49 (South Head road).	

Section 33.

SCHEDULE THREE.

Nos. of Acts.	Titles of Acts.	Extent of suspension.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	Subsections (vii) and (viii) of section 17, and the words in subsection (iv) of section 15, "except from land subject to land tax as hereinafter specifically excepted."
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895 ... ..	
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897 ... ..	
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898 ... ..	So much as relates to land values taxation.
59 Vic. No. 16 ...	Land Tax Act of 1895 ... ..	
Act No. 28, 1900...	Land Tax (Assessment Books) Act, 1900 ... ..	The whole.
Act No. 46, 1900...	Land Tax (Contribution) Act, 1900...	The whole.
Act No. 115, 1902...	Land Tax (Leases) Act, 1902 ...	The whole.