

Guidelines for local government authorities

2008



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Library Act 1939

Introduction

These guidelines have been developed by the Library Council of New South Wales to assist local authorities in interpreting the provisions of the *Library Act 1939* in relation to local public libraries. The guidelines were approved by the Library Council of NSW at its meeting of 25 February 2008, and replace the guidelines relating to section 10, *Library Amendment Act 1992*.

The Public library system in NSW

NSW public libraries are managed by local authorities (councils) that have adopted the *Library Act 1939*. The State Library provides a range of services to public libraries including support and consultancy.

If a local authority has adopted the Act, and operates its library service in accordance with the Act, it is eligible for subsidy administered by the Library Council of New South Wales. By observing the principles the legislation embodies, local authorities may also be eligible for other financial assistance from the State Government's annual funding program. Local libraries receive subsidies and grants approved by the Minister for the Arts on the recommendation of the Library Council.

Amendments to the Library Act 1939 section 10

The *Library Amendment Act 1992* amended section 10 of the *Library Act 1939*, which deals with provisions in relation to local public libraries. These amendments were introduced "to make further provision with respect to the services to be provided free of charge by local libraries; and for related purposes." The amendments ensure that the core educational and information components of public library services remain free of charge.

Section 10 was further amended by the *Statute Law (Miscellaneous Provisions) Act 2005*. Notably the amendments replaced the definition of “book” with a definition of “library material” in view of the vast amount of non-printed material that now form part of the collection of a library. [1]

Key sections of the Act for Public Libraries

PART 2 The Library Council of New South Wales

Section 3 of the Act constitutes the Library Council of NSW, a statutory body whose objects are:

(a) to promote, provide and maintain library services and information services for the people of New South Wales through the State Library and through co-operation with local libraries and other libraries and information agencies,

(b) to advise the Minister, local authorities and, when the Minister so approves, other bodies, on matters of policy and administration relating to library services and information services that are or may be provided through local libraries or other libraries,

and

(c) to advise the Minister on the provision of assistance to local libraries or other libraries.

S4B(9) enables Council to establish committees for the purpose of assisting it to exercise and perform its powers, duties and functions.

The Public Libraries Consultative Committee is a committee of the Library Council of New South Wales. It was established by resolution of the Library Council at its meeting of 22 July 1996.

The Committee’s Terms of reference are to:

provide policy advice to Library Council in relation to the provision of public library services in New South Wales

provide a consultative framework for the Library Council, the State Library and key stakeholders in local government concerning public library services in New South Wales

monitor the funding arrangements, in order to provide annual advice to the Library Council, which can inform the four yearly review of the formula

provide advice to Library Council on an annual basis concerning the development of guidelines for Library Development Grants. The Committee does not evaluate grant applications nor allocate Library Development Grants.

Section 5 sets out the Duties of Library Council with regards to public libraries provided by local authorities that have adopted the Act (e.g. make careful inquiry into the administration and management of every local library, cause libraries to be inspected from time to time, to report to the Minister the funds required to provided to local authorities each year).

The State Library of NSW assists the Library Council discharge these duties through the annual collection of NSW public library statistics and financial information, and through library visits and consultancies.

Section 13(3) sets out that Library Council must be of the opinion that a local library is reasonably capable of meeting the requirements of persons resident in the area before recommending the allocation of subsidy to the relevant local authority.

PART 3 Local Libraries

Section 8 sets out how local authorities adopt the Act.

Section 8 of the Act sets out adoption and revocation. Section 8(2) sets out that revocation may only occur after a poll of electors.

Section 8(4) sets out that where a local authority revokes the adoption of the Act, an adjustment shall be made in the interests of the Crown in any property that has been contributed to by subsidies paid under the Act. Adjustments payable would be worked out by the local authority and Library Council. If an agreement cannot be reached, the Governor will decide.

Once a local authority adopts the Act, and operates a library service that complies with the Act, the local authority is eligible for state government funding assistance, including subsidy pursuant to section 13. All NSW local authorities have adopted the Act.

Section 10 sets out requirements that local authorities must comply with in the operation of a public library (eg. free membership, free loans, free access to information, subsidy must be expended on free services). See Guidelines to Section 10 .

Section 11 provides that a local authority may constitute a library committee to manage or provide the library service, or to advise on an aspect of the library service.

Section 12 sets out how councils may constitute a regional or joint library service.

Sections 13 and 14 set out eligibility for subsidy and how subsidy is payable.

Library Regulation 2018

The Library Regulation 2018 makes provision for:

- (a) the management of the State Library and of local libraries (including the maximum fee that may be charged for the late return of borrowed library material)
- (b) the conduct of users of the State Library and local libraries
- (c) the amount used for the purposes of calculating the yearly subsidy payable to certain councils in respect of library services and related facilities provided by those councils
- (d) the determination of local populations for subsidy purposes

The Regulation enables a local authority to make rules to regulate use of its public library including member registration and loans. It also provides a power to direct library users to leave if the rules for proper use of a library have not been observed.