

New Zealand.



ANALYSIS.

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1902, No. 59.

Title. AN ACT to amend "The Municipal Corporations Act, 1900."
[3rd October, 1902.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title. 1. The Short Title of this Act is "The Municipal Corporations Amendment Act, 1902"; and it shall form part of and be read together with "The Municipal Corporations Act, 1900" (hereinafter called "the principal Act").

Section 3 amended. 2. Section three of the principal Act is hereby amended by repealing subsection seven thereof.

District electors roll. 3. (1.) It shall not hereafter be necessary for the Town Clerk to make out annually a district electors list or roll, but such list and roll shall be made out on or before the fifth day of March in every year in which a general election of the Council is to be held.

Supplementary roll. (2.) All corrections and additions required to be made after the completion of the district electors roll shall be made on a supplementary district electors list, which shall be corrected, completed,

and authenticated in the same manner as in the case of the district electors roll, and thereupon shall become a supplementary district electors roll, and shall form part of the district electors roll.

4. Subsection one of section thirteen of the principal Act (relating to the qualification of electors) is hereby amended by repealing the words "rate-book" in paragraph (b) thereof, and substituting in lieu thereof the words "valuation-roll":

Section 13 of principal Act amended.

Provided that in the case of transfers of property the valuation-roll may be corrected at any time.

5. For the purposes of any election or proposal to be submitted to all the electors of a divided borough, the rolls of the several wards shall together be the combined roll required by section twenty-one of the principal Act.

Combined roll.

6. Section forty-eight of the principal Act is hereby amended by adding to subsection one thereof the following paragraph:—

Section 48 of principal Act amended.

(c.) In the case of a united borough not divided into wards, of not less than twelve nor more than twenty-one Councillors, exclusive of the Mayor.

7. (1.) The minutes of the proceedings of the Council or of any committee, duly entered and authenticated as prescribed by the by-laws of the Council made under section seventy-six of the principal Act, shall be *prima facie* evidence of such proceedings and of the validity thereof.

Minutes of proceedings to be evidence.

(2.) Subsection ten of section seventy-six of the principal Act is hereby repealed.

Repeal.

8. Section eighty-nine of the principal Act (relating to the payment of subsidy) is hereby amended,—

Amendment of principal Act as to subsidy.

(a.) By repealing the words "same year" in subsection one thereof, and substituting in lieu thereof the words "following year"; and

(b.) By adding at the end of the same subsection the following provisoes:—

Provided that subsidy shall not be payable on any amount exceeding the sum which would be collectible from a rate of three-farthings in the pound on the capital value where the rate is levied on the capital or unimproved value of the rateable property in the borough, or of one shilling in the pound on the annual value where the rate is levied on the annual value:

Provided also that subsidy shall not be payable on any part of such general rates expended in contributing to the funds of any other local authority not receiving subsidy under "The Local Bodies' Finance and Powers Act, 1885," or the principal Act.

9. Section ninety-eight of the principal Act is hereby amended by inserting, after the words "or of any ward," the words "or defined portion," and by repealing the words "or wards," and substituting in lieu thereof the words "or portion."

Section 98 of principal Act amended.

10. (1.) All moneys raised by special loan shall be paid into a separate account at the bank for each loan, which account shall be named according to the description of the loan.

The District Fund Account.

(2.) All other moneys belonging to the District Fund shall be paid into an account at the bank to be called "The District Fund Account."

Repeal

(3.) This section is in substitution for subsection two of section ninety-one and section ninety-two of the principal Act, which subsection and section are hereby accordingly repealed.

Sanitary fee recoverable as a rate.

11. Where the Council, under section one hundred and eight of the principal Act, levies an annual fee in lieu of a sanitary rate, such fee shall be recoverable as a rate, and shall form part of the District Fund.

Repeal.

12. Sections one hundred and twenty to one hundred and fifty-three and the Fifth Schedule of the principal Act (relating to special loans) are hereby repealed:

Provided that all proceedings commenced under the repealed sections prior to the passing of this Act may be continued and completed under those sections.

Section 159 of principal Act amended.

13. (1.) Section one hundred and fifty-nine of the principal Act (limiting the amount of unauthorised expenditure) is hereby amended by repealing the words "moneys to the credit of."

(2.) This section shall be deemed to have had effect as from the commencement of the principal Act.

Section 3 of "Public Revenues Act, 1893," amended.

(3.) Section three of "The Public Revenues Act, 1893," is hereby amended by repealing the words "Borough Council."

Section 175, &c., of principal Act explained.

14. For the purposes of section one hundred and seventy-five of the principal Act the term "district electors," and for the purposes of section one hundred and seventy-six of the same Act the term "electors," are hereby declared to mean and include all persons who are entitled to vote at the election of a member of any local authority within the area to which those sections respectively relate.

Petition for constitution of united borough.

15. (1.) No petition for the union of any two or more boroughs shall be presented to the Governor under section one hundred and seventy-seven of the principal Act until after a poll of the electors of at least one of such boroughs has been taken on the proposal that such boroughs shall be constituted one united borough.

(2.) The poll may be taken in pursuance of a special order of the Council of any such borough, and shall be taken within thirty days after the presentation to any such Council of a request in writing that a poll be taken signed by not less than ten per centum of the electors of such borough.

(3.) If the result of the poll is in favour of the proposal, but not otherwise, a petition shall, within thirty days after the taking of the poll, be presented to the Governor by the Council of the borough in which the poll was taken, praying that such boroughs be constituted one united borough.

(4.) All valuation-rolls, electors lists, electors rolls, and rate-books in force in the boroughs forming any united borough, on the issue of any Proclamation under the said section one hundred and seventy-seven, shall continue in force in the united borough until new valuation-rolls and electors lists and rolls and rate-books respectively are made for such united borough under the principal Act.

Repeal.

(5.) Subsections two and four of the said section one hundred and seventy-seven are hereby repealed, and subsection one of the same section is hereby amended by repealing the words "adjoining each other and."

16. Where under the principal Act any proposal is submitted to the vote of the electors the voting-paper shall be in the following form :—

Voting-paper on proposal.

Proposal that [*State the proposal*].

1. I vote *for* the above proposal.
2. I vote *against* the above proposal.

17. Section one hundred and seventy-eight of the principal Act is hereby amended by inserting, after the words "The Governor may by Proclamation," the words "either declare such united borough to be an undivided borough and assign thereto such number of Councillors as he thinks fit, or."

Section 178 of principal Act amended.

18. Section one hundred and eighty of the principal Act is hereby amended by inserting, after the words "and the electors of," the words "the united borough or."

Section 180 of principal Act amended.

19. Where under section one hundred and eighty-two of the principal Act the Council of a borough abolishes all wards therein, and thereupon the borough becomes an undivided borough, it shall be lawful for the Council, subject to the provisions of the principal Act, to fix the number of Councillors for such undivided borough.

Council may fix number of Councillors on abolition of wards.

20. (1.) In any case where—

- (a.) An undivided borough is divided into wards ; or
- (b.) The wards of a divided borough are abolished ; or
- (c.) A divided borough is wholly redivided ; or
- (d.) The total number of members of the Council is altered,—

Councillors to go out of office on alterations within boroughs.

then the whole Council shall go out of office, and there shall be a fresh election of Councillors.

(2.) In any case where—

- (e.) The boundaries of any ward are altered ; or
- (f.) The number of members of any ward is altered ; or
- (g.) Any adjoining district is incorporated into a borough, and included in an existing ward,—

then the Councillors of the ward affected shall go out of office, and there shall be a fresh election of Councillors for such ward.

(3.) In any case where—

- (h.) Any such district is so incorporated and forms a new ward or wards,—

then there shall be an election of Councillors for such new ward or wards.

(4.) In every such case the Councillors elected under this section shall, subject to the provisions of section one hundred and eighty-five of the principal Act, remain in office until the next biennial election.

21. Where upon the constitution of a new borough an election of a Mayor is held within two months of the time fixed for the annual election of Mayor it shall not be necessary to hold such annual election, but the Mayor shall remain in office until the next succeeding annual election.

Annual election of Mayor not to take place in certain cases.

22. Section two hundred and twenty of the principal Act (relating to the control of bridges and ferries) is hereby amended by repealing the words "Minister for Public Works," and substituting in lieu thereof the words "Minister of Lands."

Amendment of section 220.

Section 231 of principal Act amended.

23. Subsection one of section two hundred and thirty-one of the principal Act is hereby repealed, and the following substituted in lieu thereof :—

“(1.) May require any projection or obstruction in or over any part thereof to be removed at the expense of the person causing the same, or to whom the same belongs.”

Section 236 of principal Act amended.

24. Section two hundred and thirty-six of the principal Act is hereby amended by repealing the words “construct” and “construction,” and substituting in lieu thereof respectively the words “lay off” and “laying off,” and by inserting after the word “shall” the word “not.”

Power to pull down ruinous wall.

25. The powers conferred on the Council by section three hundred and fifty of the principal Act as to ruinous buildings may be exercised in the case of a wall or fence, whether forming part of a building or not, and also in the case of a building in such a condition as to be dangerous to the persons residing therein.

Extension of sections 355 and 357 in regard to gymnasium, &c.

26. Sections three hundred and fifty-five and three hundred and fifty-seven of the principal Act are hereby extended to include any physical training-school, gymnasium, or Trades Hall not conducted for the purpose of private profit, and the Council may maintain or otherwise aid any institution referred to in the said sections or this section by money or grant or lease of land.

Open space to be provided for every dwellinghouse.

27. (1.) Every person who erects a new dwellinghouse in a borough shall provide at the side or in the rear thereof an open space exclusively belonging to such dwellinghouse, and of an extent of not less than three hundred superficial feet.

(2.) Such open space shall extend throughout the entire width, or, in the alternative, throughout the entire depth of the site, and shall be free from any erection thereon above the level of the ground.

(3.) The minimum distance across such open space from every part of the dwellinghouse, and from every part of any wash-house, shed, convenience, or other erection attached thereto, shall be as follows :—

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| (a.) If the height of the dwellinghouse does not exceed fifteen feet | | | Fifteen feet. |
| (b.) If the height exceeds fifteen feet but does not exceed twenty-five feet | | | Twenty feet. |
| (c.) If the height exceeds twenty-five feet but does not exceed thirty-five feet | | | Twenty-five feet. |
| (d.) If the height exceeds thirty-five feet | | | Thirty feet. |

(4.) The height of a dwellinghouse shall, for the purposes of this section, be measured from the average level of the ground immediately adjoining the side or the rear of such dwellinghouse, as the case may be, to the level of half the vertical height of the roof, or to the top of the parapet, whichever is the higher.

(5.) Where any alteration or addition is made to any dwellinghouse (whether erected before the commencement of this Act or not) the open space attached to such dwellinghouse shall not be diminished by such alteration or addition so as to leave a lesser area than is required by this section to be provided.

(6.) The erection of a dwellinghouse upon vacant land or upon a site previously occupied by any building, or the re-erection of any

dwellinghouse pulled down to within one foot of the ground floor, or the conversion into a dwellinghouse of any building not originally constructed for human habitation, or the conversion into more than one dwellinghouse of a building originally constructed as one dwellinghouse only, or an addition or raising of an existing dwellinghouse (so far as such addition or raising is concerned), shall be deemed to be the erection of a new dwellinghouse within the meaning of this section.

(7.) The ground upon which any dwellinghouse is erected, together with the whole curtilage thereof enclosed within the boundary fences, walls, or lines of the premises, shall be deemed to be the site of such dwellinghouse within the meaning of this section.

(8.) This section is in substitution for the provisions of subsection one of section three hundred and fifty-two of the principal Act, and that subsection is hereby accordingly repealed.

28. (1.) Subsections two to ten of the said section three hundred and fifty-two shall apply only to lodginghouses and hotels, and houses occupied by more than one family, but except as aforesaid the provisions of the said section three hundred and fifty-two shall not apply to hotels.

Section 352
restricted.

(2.) Subsection eleven of section three hundred and fifty-two of the principal Act is hereby repealed.

29. The provisions of section three hundred and sixty-two of the principal Act (relating to the licensing of public buildings) and of the Thirteenth Schedule thereto shall apply to all buildings used for purposes of public worship, except that no license fee shall be payable in respect of any building exclusively used for such purposes.

Places of public
worship to be
licensed.

30. The Council may, if it thinks fit, from time to time appoint a duly qualified medical practitioner as medical officer, at such remuneration and with such duties as the Council prescribes.

Appointment of
medical officers.

31. The Twelfth Schedule to the principal Act (relating to the powers of the Council as to unhealthy or ruinous buildings) is hereby amended by repealing the words "named in such notice" in clause three thereof, and substituting in lieu thereof the words "named in such order."

Twelfth Schedule
amended.

32. Section four hundred and six of the principal Act is hereby amended by repealing the word "adjoining" in the proviso to subsection two.

Section 406
amended.

33. It shall be lawful for the Council from time to time to transfer to the general account of the borough any surplus remaining to the credit of the separate account which the Council would be obliged by law to keep, showing the moneys accruing from gasworks or electric-light works: Provided always that no moneys shall be so transferred till due provision is first made for all sums with which the separate account is by law chargeable.

Profits of gasworks,
&c.