



ANALYSIS

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1968, No. 123

An Act to amend the Municipal Corporations Act 1954

[17 December 1968]

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

1. Short Title—This Act may be cited as the Municipal Corporations Amendment Act 1968, and shall be read together with and deemed part of the Municipal Corporations Act 1954 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the terms “valuation list” and “valuation roll” in subsection (1), and substituting the following definition:

“‘Valuation roll’ means a valuation roll for the district prepared under section 28 of the Valuation of Land Act 1951 or, as the case may be, compiled under section 28 of the Rating Act 1967.”

(2) Section 408 of the principal Act is hereby amended by omitting the words “valuation roll or list”, and substituting the words “valuation roll”.

3. District electors list—(1) Section 29 of the principal Act is hereby amended by repealing the proviso to subsection (3).

(2) Section 29 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsections:

“(3A) Notwithstanding subsection (3) of this section, the Town Clerk may omit from the district electors list the name of any person whose name appeared by virtue only of a residential qualification on the district electors roll for the last general election of Councillors, if—

“(a) That person, being qualified to vote and not being a candidate, did not vote at that election; and

“(b) That person, having been given notice in accordance with regulations under this Act that his name is to be omitted from the list, has not applied in the prescribed form for his name to be entered on the district electors list:

“Provided that in any case where the notice is given by post, the name of any person shall not be omitted from the list unless the notice has been returned to the Town Clerk as unclaimed:

“Provided also that this subsection shall not apply with respect to any person who has voted at any one of any subsequent elections of a Councillor or Councillors or of the Mayor at which he was entitled to vote.

“(3B) A notice given to any person under paragraph (b) of subsection (3A) of this section shall, if given by post, be sent to him at the address appearing to the Town Clerk to be

his last known place of abode, whether or not that address is the address appearing on the district electors roll for the last general election of Councillors.”

4. Extraordinary vacancies—(1) Section 57 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Subject to subsections (1A) and (1B) of this section, if any person, while holding office as Mayor or Councillor,—

“(a) Ceases to be an elector or ceases to possess a qualification as an elector; or

“(b) Becomes a mentally defective person within the meaning of the Mental Health Act 1911; or

“(c) Is adjudged a bankrupt; or

“(d) Is convicted of any offence punishable by imprisonment for a term of two years or more; or

“(e) Is convicted of any offence punishable by imprisonment for a term of less than two years and is sentenced to imprisonment for that offence,—

his office shall thereby be vacated.

“(1A) In any case to which paragraph (d) of subsection (1) of this section applies—

“(a) The disqualification shall not take effect until the expiration of the time for appealing against the conviction and, in the event of an appeal against conviction, until the appeal is determined; and

“(b) The Mayor or Councillor concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as Mayor or Councillor, as the case may be, during the period of that leave of absence.

“(1B) In any case to which paragraph (e) of subsection (1) of this section applies—

“(a) The disqualification shall not take effect until the expiration of the time for appealing against the conviction or the sentence and, in the event of an appeal against conviction or against the sentence or both, until the appeal is determined; and

“(b) The Mayor or Councillor concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as Mayor or Councillor, as the case may be, during the period of that leave of absence.”

(2) Section 57 of the principal Act is hereby further amended by inserting in subsection (2), after the words

“paragraph (b) thereof”, the words “or while on leave of absence pursuant to subsection (1A) or subsection (1B) of this section”.

5. Chairman of committee meetings—(1) Section 70 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) At every meeting of any committee the permanent Chairman thereof, if present, or, in his absence, the Deputy Chairman (if any), shall preside.”

(2) Section 70 of the principal Act is hereby further amended by omitting from subsection (4) the words “permanent Chairman is”, and substituting the words “permanent Chairman and the Deputy Chairman (if any) are”.

6. Imprest Accounts—(1) Section 88 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “the bank at which the District Fund Account is kept”, and substituting the words “such bank as the Council from time to time appoints”:

(b) By inserting in subsection (4), after the words “payment of”, the words “salaries and”.

(2) Section 88 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) With the prior approval of the Audit Office, the Council may, pursuant to a resolution in that behalf, establish one or more additional Imprest Accounts, which shall be operated for such purposes and in accordance with such provisions as are approved by the Audit Office, and shall be kept at such bank as the Council from time to time appoints. Subsections (2) to (4) of this section shall apply with respect to every such additional Imprest Account as if it had been established under subsection (1) of this section, and as if for the words ‘salaries and wages and of emergency expenditure’ in subsection (4) there were substituted the words ‘money for the purposes for which the Imprest Account was established’.”

7. Drainage rate—(1) The principal Act is hereby further amended by repealing section 103 (as substituted by section 9 of the Municipal Corporations Amendment Act 1959), and substituting the following section:

"103. (1) The Council may make and levy an annual drainage rate on all lands and buildings (being rateable property) within the district that are connected, either directly or through a private drain, to a public drain, not exceeding a rate equal to five thirty-seconds of a cent in the dollar on the capital value of those lands and buildings or its equivalent on the unimproved value or annual value:

"Provided that, if that rate would produce less than two dollars in respect of any such land or building, a rate of not more than two dollars may be made and levied.

"(2) Instead of making and levying any such rate, the Council may make a uniform annual charge for drainage:

"Provided that any such annual charge may be a uniform annual charge for each water closet or urinal served, either directly or through a private drain, by a public drain.

"(3) Every such annual charge shall for all purposes be deemed to be a separate rate.

"(4) Where any land or building (being rateable property) within the district is situated within one hundred feet of a public drain to which it is capable of being effectively connected, either directly or through a private drain, but the land or building is not connected, either directly or through a private drain, to any public drain, the Council may make and levy a rate or, as the case may be, make an annual charge on or in respect of that land or building not exceeding half of the rate made and levied pursuant to subsection (1) of this section or, as the case may be, half the annual charge made pursuant to subsection (2) of this section:

"Provided that—

"(a) If the amount that would be so payable in respect of that land or building exceeds ten dollars, a rate of not more than ten dollars may be made and levied or, as the case may be, a charge not exceeding ten dollars may be made:

"(b) If, in any case where a rate is made and levied the amount that would be so payable in respect of that land or building is less than one dollar, a rate of one dollar may be made and levied.

"(5) The proceeds of the rate or annual charge shall be available only for the purpose of the maintenance and extension of public drains of the district or the payment of annual charges on any loans raised in connection with the drainage system of the district."

(2) The following enactments are hereby consequentially repealed:

- (a) Section 9 of the Municipal Corporations Amendment Act 1959:
- (b) Section 6 of the Municipal Corporations Amendment Act 1961.

8. Centennial Fund—The principal Act is hereby further amended by inserting, after section 120B (as inserted by section 12 of the Municipal Corporations Amendment Act 1959), the following section:

“120c. (1) Notwithstanding anything in section 86 of this Act, the Council may establish a separate bank account to be known as the Centennial Fund Account (in this section referred to as the Fund), and may pay into that Fund in each or any financial year such sums as it thinks fit.

“(2) The Council may expend the money in the Fund, together with any interest thereon, on celebrating and commemorating the centennial of the founding or constitution of the district, or instead of expending part or all of the Fund, the Council may make grants or advances to any body corporate or unincorporate not carried on for private profit whose sole or principal object or one of whose principal objects is the organisation of such centennial celebrations.

“(3) Any sum remaining in the Fund after all such expenditure, grants, and advances have been made shall be transferred to the District Fund Account of the Council to the credit of the General Account.”

9. Apportionment of income for each year—Section 121 of the principal Act (as amended by section 13 (2) of the Municipal Corporations Act 1959) is hereby further amended—

- (a) By inserting in subsection (2), after the words “the general rate”, the words “and in respect of property in that ward by way of grants in lieu of general rates”:
- (b) By inserting in subsection (3), after the words “in each ward”, the words “(including property in the ward in respect of which grants are received in lieu of general rates)”:
- (c) By adding to subsection (3) the words “(including property in the borough in respect of which grants are received in lieu of general rates)”.

10. Application of surplus of separate or special rate—Section 123 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended—

- (a) By omitting from the first proviso the words “one hundred dollars”, and substituting the words “one thousand dollars”:
- (b) By omitting from the second proviso the words “ten dollars” and substituting the words “two hundred and fifty dollars”.

11. Money not to be paid by promissory note or bill—Section 125 of the principal Act is hereby amended by inserting, after the words “or bill”, the words “(not being a cheque)”.

12. Accounts to be kept in accordance with requirements of Audit Office—Section 127 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

- “(a) A General Account shall be kept, and credited with all money not required by or under this Act or any other Act or by resolution of the Council to be carried to any other account, and debited with expenditure which is not required by or under this Act or any other Act or by resolution of the Council to be charged, or which is not otherwise properly chargeable against any other account;”.

13. Sale or exchange of land vested in Corporation—Section 150 of the principal Act is hereby amended—

- (a) By omitting from subsection (1) the words “pursuant to a special order in that behalf”, and substituting the words “pursuant to a resolution of the Council”:
- (b) By omitting from the proviso to subsection (1) the words “a special order shall not be necessary”, and substituting the words “public notice of the time and place of the meeting at which the resolution is to be submitted to the Council and of the purport of the resolution (including the name of and number in the street, or some other readily identifiable description of the land) shall be given not less than fourteen clear days before the date of the meeting, but no such notice shall be necessary”.

14. Pedestrian malls—The principal Act is hereby further amended by inserting, after section 170, the following heading and section:

“Pedestrian Malls

“170A. (1) In this section, unless the context otherwise requires,—

“‘Vehicle’ has the same meaning as in section 2 of the Transport Act 1962:

“‘Parking’ means the stopping or standing of a vehicle for any period exceeding five minutes; and ‘park’ has a corresponding meaning.

“(2) The Council may from time to time, by special order, prohibit or restrict, either generally or during particular hours and subject to such exemptions and conditions as to occasional user or otherwise as may be specified in the order, the driving, riding, or parking of any vehicle or the riding of any animal on all or any portion of any street, and may provide that the special order shall have effect for a limited period only:

“Provided that where the street has been declared to be a State highway under the National Roads Act 1953, no special order made under this section shall apply with respect to that street or any portion thereof except with the prior consent of the National Roads Board.

“(3) The first public notice of any resolution under subsection (2) of this section shall, in addition to any other particulars required to be given therein, contain a statement to the effect that any person likely to be affected by the proposal contained in the resolution may, by writing under his hand addressed to the Town Clerk and received at the office of the Council not later than fourteen days after publication of the notice, object to the proposal and that any such person will be given the opportunity of being heard by the Council.

“(4) Where any person objects to the proposal in accordance with subsection (3) of this section, the Council shall appoint a day for considering the objection and shall give notice to the objector of the time when and place where the objection is to be heard. Any such time shall be not earlier than seven days after the date on which the notice of objection was received at the office of the Council.

“(5) The Council, at the time and place stated in the notice referred to in subsection (4) of this section, shall consider the objection, and after hearing any submissions made by or on behalf of the objector, may either dismiss the objection or decide not to proceed with the proposal or make such

modifications to the proposal to which the objection relates as it thinks fit. The hearing of any such objection may be adjourned from time to time and from place to place.

“(6) Where there are more objectors than one, the Council shall, as far as practicable, hear all objections together and give each objector an opportunity of considering and being heard in respect of all other objections.

“(7) Where any proposal is modified under subsection (5) of this section, the modified proposal shall, for the purposes of the special order, be deemed to be contained in the original resolution, and may be confirmed at the subsequent meeting of the Council held under section 77 of this Act without any further notification of the original resolution as modified.

“(8) No resolution under this section shall be confirmed until the Council has considered all objections of which notice has been given in accordance with this section.

“(9) Where the Council makes a special order under subsection (2) of this section in any case where one or more objections to the proposal were received—

“(a) The Council shall give public notice of the making of the special order and of the general purport thereof, specifying in the notice the right of appeal conferred by subsection (10) of this section; and

“(b) The special order shall not take effect until the expiration of the time for appealing and, in the event of any appeal, shall be suspended until all appeals against the special order have been determined.

“(10) Any objector aggrieved by the decision of the Council making a special order under subsection (2) of this section may appeal against that decision in the prescribed manner to the Town and Country Planning Appeal Board constituted under the Town and Country Planning Act 1953.

“(11) On any such appeal, the Board may cancel or confirm the special order or confirm it subject to modification, and the decision of the Board shall be final.

“(12) Nothing in subsections (3) to (11) of this section shall apply in any case where the special order under subsection (2) of this section is made for the purpose of giving effect to any provision of an operative district scheme under the Town and Country Planning Act 1953.

“(13) Any person who drives, rides, or parks any vehicle or rides any animal, or causes or permits any vehicle to be driven, ridden, or parked or any animal to be ridden, in contravention of a special order made under subsection (2) of this section

(including such an order modified by the Town and Country Planning Appeal Board) commits an offence, and is liable to a fine not exceeding twenty dollars.

“(14) Nothing in any special order made under subsection (2) of this section or in subsection (13) of this section shall be deemed to prohibit or restrict the use of any street or portion of any street to which any such special order relates by any fire appliance, ambulance, or other vehicle where it is necessary for that appliance, ambulance, or vehicle to enter the street or portion thereof for the protection of human life or of property.

“(15) Any special order made under subsection (2) of this section (including such an order modified as aforesaid) may, by subsequent special order, be revoked, or varied. In making any such subsequent special order, the procedure to be followed shall be the same as for the making of the original special order.”

15. Vehicle crossings—Section 178A of the principal Act (as inserted by section 12 of the Municipal Corporations Amendment Act 1964) is hereby amended by inserting in subsection (1), after the words “as the case may be”, the words “or of the Town Clerk”.

16. Powers of Council with respect to private streets and private ways—(1) Section 184 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (1) the words “as lies between his land and the middle line of the street”, and substituting the words “as the Council thinks fit”.

(2) Section 184 of the principal Act is hereby further amended by omitting from subsection (2) the words “more than two buildings that are separately owned or separately occupied”, and substituting the words “two or more allotments that are separately owned or separately occupied or to any allotment on which there are two or more buildings that are separately occupied”.

17. Betterment due to creation or widening of service lane—(1) Section 192 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in paragraph (e) of subsection (1) of section 29 of the Finance Act (No. 3) 1944 or in any other enactment, where—

“(a) The Council creates a service lane in the district and for that purpose takes part of any land that will have access to that service lane; or

“(b) The Council widens any service lane in the district and for that purpose takes part of any land having access to that service lane; and

“(c) By reason of the creation or widening of the service lane the value of the remaining part of the land is increased by an amount that exceeds the amount of compensation payable to the owner in respect of the part of his land so taken,—

the owner shall pay the amount of that excess to the Council by way of betterment to the remaining part of his land.”

(2) The principal Act is hereby further amended—

(a) By repealing subsection (4) of section 192:

(b) By omitting from subsection (3) of section 219A (as inserted by section 18 of the Municipal Corporations Amendment Act 1959) the word “four”.

(3) Subsection (2) of this section shall come into force on the first day of April, nineteen hundred and sixty-nine.

18. Penalties for injuries to streets—Section 199 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (d), the following paragraph:

“(dd) Wilfully or negligently causes or allows any oil, or any liquid harmful to sealed or paved street surfaces or likely to create a danger to vehicles on such surfaces, to escape on to any street having a sealed or paved surface; or”.

19. Damage to electricity works—The principal Act is hereby further amended by inserting, after section 271, the following section:

“271A. (1) Every person who wilfully or negligently damages electricity works or appliances established or constructed or used by the Council under this Part of this Act shall be liable for the amount of such damage, to be recovered by the Council in any Court of competent jurisdiction.

“(2) Every person who wilfully damages any such electricity works or appliances commits an offence, and is liable to a fine not exceeding one thousand dollars.”

20. Meaning of “gas”, “natural gas”, and “gasworks”—The principal Act (as amended by section 19 of this Act) is hereby further amended by inserting, before section 272 and after the heading “*Supply of Gas*”, the following section:

“271B. In this Part of this Act—

“‘Gas’ includes natural gas:

“ ‘Gasworks’ includes plant, machinery, and equipment for the processing, treatment, storage, or distribution of natural gas:

“ ‘Natural gas’ has the same meaning as in section 2 of the Natural Gas Corporation Act 1967.”

21. Powers of Council with respect to dilapidated or ruinous buildings—Section 300 of the principal Act is hereby amended—

- (a) By omitting from subsection (3) the words “(other than a dwellinghouse)”:
- (b) By inserting in subsection (3), after the words “ruinous condition”, the words “and, in the case of a dwelling-house, has not been inhabited by or with the authority of the owner, lessee, or licensee thereof for twelve months or more”.

22. Powers of Council with respect to buildings likely to be dangerous in earthquake—The principal Act is hereby further amended by inserting, after section 301, the following section:

“301A. (1) In this section—

“ ‘Building’ means a building constructed wholly or substantially of unreinforced concrete or unreinforced masonry; and includes any part of a building so constructed; but does not include any building used wholly or principally as a private dwelling, unless the building is of two or more storeys and contains three or more residential flats or apartments:

“ ‘Council’ means a Council to which this section applies pursuant to an Order in Council under subsection (2) of this section:

“ ‘Masonry’ means any construction in units of burnt clay, concrete, or stone laid to a bond in and joined together with mortar:

“ ‘Moderate earthquake’ means an earthquake that would subject a building to seismic forces one-half as great as those specified in New Zealand Standard Model Building Bylaw (N.Z.S. 1900, Chapter 8: 1965) for the zone (as described in that bylaw) in which the building is situated:

“ ‘Unreinforced masonry’ means masonry classified as unreinforced masonry by Chapter 9.2: 1964 of the said bylaw.

“(2) The Governor-General may from time to time, by Order in Council made on the application to the Minister by the Council concerned, declare that any specified Council shall be a Council to which this section applies.

“(3) Where the Council is satisfied that any building in the district (being a building to which this section applies), having regard to its condition, the ground on which it is built, its present and likely future use, and all other relevant matters, will have its ultimate load capacity exceeded in a moderate earthquake and thereby constitute a danger to persons therein or in any adjoining building or on any adjoining land or to passers-by, the Council may, by notice in writing signed by the Mayor or Chairman, as the case may be, or by the Town Clerk or Engineer given to the owner, require the owner of the building within the time specified in the notice to remove the danger, either by securing the building to the satisfaction of the Council or by taking down the building. The Council shall also send a copy of the notice—

“(a) To every person having a registered interest in the land on which the building is erected under any mortgage or other encumbrance; and

“(b) To every person claiming an interest in the land which is protected by a caveat lodged under section 137 of the Land Transfer Act 1952 and for the time being in force; and

“(c) Where the owner is not the occupier of the land within the meaning of the Rating Act 1967, to every occupier of the land within the meaning of that Act.

“(4) Within sixty days after the notice is given to him, the owner or any person referred to in paragraphs (a) to (c) of subsection (3) of this section may object in writing to the Council against the requirements of the notice, and the notice shall thereupon be deemed to be suspended pending the determination of the objection, or, where application is made to the Court to confirm the notice, pending the decision of the Court.

“(5) Where any such objection is received by the Council, the Council shall as soon as practicable inquire into and dispose of the objection:

“Provided that no objection shall be dismissed unless reasonable notice of the date and time when and the place where it is to be considered has been given to the objector, who, if present at the appointed time and place, shall be entitled to be heard and submit evidence and call witnesses

in support of his objection. Any objector may be represented at the hearing by counsel or otherwise.

“(6) Where on inquiry into the objection the Council reaffirms its requirements, the Council shall apply to a Magistrate’s Court for an order confirming the notice given by the Council under subsection (3) of this section.

“(7) The Minister shall from time to time, by notice in the *Gazette*, publish a panel of persons of special skill or knowledge from whom assessors may be appointed under subsection (8) of this section.

“(8) The Court hearing an application under subsection (6) of this section shall hear the application with the assistance of two assessors, to be appointed for the purposes of that application by the Secretary for Internal Affairs from the panel of persons published under subsection (7) of this section. The sole function of the assessors shall be to assist the Court in determining the application, and the application shall be determined by the Court alone.

“(9) If any assessor dies or is for any reason unable to act or to continue to act, an assessor may be appointed under subsection (8) of this section to act in his place, whether or not the hearing of the application has commenced.

“(10) There shall be paid to assessors appointed under subsection (8) of this section, out of money appropriated by Parliament, remuneration by way of fees or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if those assessors were members of a statutory Board within the meaning of that Act.

“(11) On the hearing of the application, the Court may—

“(a) Confirm the notice without modification; or

“(b) Confirm the notice subject to modification; or

“(c) Extend the time specified in the notice for removing the danger; or

“(d) Set aside the notice.

“(12) Where—

“(a) In any case in which no objection is made, the owner fails to do any act in compliance with the notice given under subsection (3) of this section within the time specified in that notice; or

“(b) In any case in which objection is made, the notice is confirmed by the Court (whether with or without modification or extension of time), and the owner fails to do any act in compliance with the notice or with the notice as modified or extended, as the case may be,—

the Council may enter upon the land and do that act and recover the cost thereof from the owner.

“(13) The said cost shall be a charge on the land.”

23. Appeal to Supreme Court—The principal Act is hereby further amended by inserting, after section 301A (as inserted by section 22 of this Act), the following section:

“301B. (1) Where any party to the proceedings is dissatisfied with any determination of a Magistrate’s Court on any application under section 301A of this Act as being erroneous in point of law, he may appeal to the Supreme Court for the opinion of that Court on a question of law only.

“(2) The provisions of Part IV of the Summary Proceedings Act 1957, so far as they relate to appeals by way of case stated on a question of law only, shall apply, so far as they are applicable, to every appeal under this section.

“(3) The decision of the Supreme Court on any appeal under this section shall be final.

“(4) The operation of the order against which an appeal is made under this section shall be suspended by the appeal.”

24. Powers of Council in relation to public recreation and instruction, etc.—Section 305 of the principal Act is hereby amended by inserting in paragraph (a) of subsection (2), before the words “Technical or secondary schools”, the words “Universities within the meaning of the Universities Act 1961.”.

25. Power of Council to guarantee loans of sports bodies—The principal Act is hereby further amended by inserting, after section 305, the following section:

“305A. The Council may from time to time, in the name and on behalf of the Corporation, by deed or other instrument, and subject to such terms and conditions as it thinks fit, guarantee the repayment of any money advanced to any incorporated association or body of persons not carried on for private profit whose object or principal object or one of whose principal objects is to promote, encourage, or control physical education, training, or any sport other than horse racing or trotting.”

26. Apartment buildings and boardinghouses to be licensed—(1) The principal Act is hereby further amended by inserting, after section 317, the following heading and section:

“Apartment Buildings and Boardinghouses

“317A. (1) For the purposes of this section—

“‘Apartment building’ means a building in which accommodation is provided for three or more families living independently of one another, with or without a common right to the use of cooking or laundry facilities, sanitary conveniences, entrances, passages, stairways, or open spaces; and where necessary includes a portion of such a building or a combination of two or more such buildings or parts thereof; but does not include any building comprising wholly or principally owner-occupier flats:

“‘Boardinghouse’ means a residential building in which lodging alone or board and lodging are provided for a single night or longer for five or more lodgers or boarders, with or without the use of furniture; and includes a guest house, rooming house, private hotel, motel, residential club, hostel, and residential institution; and where necessary also includes a portion of such a building or combination of two or more such buildings or parts thereof; but does not include any premises in respect of which a licence under the Sale of Liquor Act 1962 is in force, any premises in respect of which such a licence is deemed to be in force pursuant to the Licensing Trusts Act 1949 or the Master-ton Licensing Trust Act 1947 or the Invercargill Licensing Trust Act 1950, any hospital, or any home for aged persons required to be licensed by regulations made pursuant to section 120A of the Health Act 1956 (as inserted by section 2 of the Health Amendment Act 1958):

“‘Family’ includes one person living alone; and also includes two or more persons, whether related or not, living together but independently of other persons living in the same building:

“‘Owner-occupier flat’ means a residential flat in respect of which any person has a right of occupation under a lease or licence or other tenure held by him by virtue of his being a shareholder in a company owning the building of which the flat forms part or by virtue of his being the owner of an estate or interest in the land on which that building is erected.

“(2) No person shall, on or after the first day of April, nineteen hundred and seventy, use any building within the district as an apartment building or a boardinghouse unless

and until the building is licensed pursuant to subsection (3) of this section and, in addition to such other conditions as the Council lawfully imposes, the provisions of that subsection have been complied with:

“Provided that where a building is being so used on that date and does not comply with the requirements imposed by the Council pursuant to this section and any bylaws of the Council for the time being in force, the Council may issue a temporary licence in respect of that building for such period and subject to such conditions as the Council thinks fit.

“(3) The provisions of sections 311, 312, 315, and 316 of this Act and of the Twelfth Schedule to this Act (except paragraph (c) of clause 2 and clause 3), as far as they are applicable and with the necessary modifications, shall apply with respect to every apartment building or boardinghouse in the district as if—

“(a) The apartment building or boardinghouse, as the case may be, were licensed under section 309 of this Act, or, as the case may require, an application for a licence in respect thereof had been made under that Schedule; and

“(b) The reference in section 316 to section 309 of this Act were a reference to this section:

“Provided that nothing in paragraph 2 of the Twelfth Schedule to this Act, as applied by this subsection, shall impose any obligation on the Council to issue a licence unless the Council is satisfied that all the provisions of any bylaws applying with respect to the apartment building or boardinghouse have been complied with.

“(4) Where on the first day of April, nineteen hundred and seventy, any building in the district is being used as an apartment building or a boardinghouse and a licence issued by the Council in respect of that building under bylaws of the Council is for the time being in force, the foregoing provisions of this section shall not apply with respect to that building until the expiration or sooner cancellation of the licence.”

(2) Section 386 of the principal Act is hereby amended by repealing paragraph (20) of subsection (1), and substituting the following paragraph:

“(20) Defining, licensing, inspecting, and regulating, boardinghouses, being houses (other than common lodginghouses or premises for which a licence under the Sale of Liquor Act 1962 is in force or in respect of which such a licence is deemed to be in force pursuant to the Licensing Trusts Act 1949 or

the Masterton Licensing Trust Act 1947 or the Invercargill Licensing Trust Act 1950) in which persons are lodged for a single night or longer, and apartment buildings:

“Provided that in the case of any boardinghouse or apartment building to which section 317A of this Act applies, this paragraph shall be read subject to the provisions of that section, but nothing in that section shall be construed as limiting the generality of the matters in respect of which bylaws may be made under this paragraph:”.

27. Proceeds of sale or lease of building allotments—Section 336 of the principal Act is hereby amended by adding to subsection (2) the following paragraph:

“(d) As to so much thereof as is not required for any of the purposes specified in paragraphs (a) to (c) of this subsection, for the purposes of any public work in the district.”

28. Streets and street access—Section 351BB of the principal Act (as inserted by section 23 (1) of the Municipal Corporations Amendment Act 1964) is hereby amended by adding to paragraph (b) of the proviso to subsection (1) the word “or”, and by adding to that proviso the following paragraph:

“(c) The allotment is to be used as the site of a pumping station, an electrical sub-station, or a gasometer, or as a site for some other public utility, and the Council resolves that this subsection shall not apply. In any such case, the Council may require the owner of the land to enter into an agreement with the Council that the land will be used only for such purpose as may be approved by the Council from time to time. Every such agreement shall be deemed to create an interest in the land for the purposes of section 137 of the Land Transfer Act 1952, and, on the entry on the title to the allotment affected of a caveat under that section, the agreement shall be deemed to be a covenant running with that allotment, and shall bind subsequent owners accordingly.”

29. Subdivision of land fronting existing narrow street—Section 351BC of the principal Act (as inserted by section 24 of the Municipal Corporations Amendment Act 1964) is

hereby amended by omitting from subsection (4) the word “deriving”, and substituting the word “accruing”.

30. Water supply, drainage, and sewage disposal—The principal Act is hereby further amended by inserting, after section 351BD (as inserted by section 25 of the Municipal Corporations Amendment Act 1964), the following section:

“351BE. (1) The Council may, as a condition of its approval of a plan of subdivision, require the owner—

“(a) Where a water-supply system or drainage system or sewage-disposal system is available to service the subdivision, to supply and lay within the subdivision necessary pipes for water supply and drains, as the case may be, to the satisfaction of the Council, and either—

“(i) To connect those pipes or drains with the water-supply system, drainage system, or sewage-disposal system, as the case may be; or

“(ii) To pay, or enter into a binding contract to pay, to the Council such amount as the Council considers fair and reasonable for or towards the cost of providing water, drainage, or sewer connections from that water-supply system, drainage system, or sewage-disposal system, as the case may be:

“(b) Where any such system is not available but is likely to be available within a period of three years,—

“(i) To pay, or enter into a contract to pay, to the Council such amount as the Council considers fair and reasonable (having regard where appropriate to the provisions of subsection (2) of this section) for or towards the cost of providing a water-supply system, a drainage system, or a sewage-disposal system, as the case may be, to serve the subdivision and of providing water, drainage, or sewer connections from that system to the subdivision or to any allotments in the subdivision; and

“(ii) To supply and lay within the subdivision pipes for water supply or drains, as the case may be, to the satisfaction of the Council.

“(2) Where pursuant to this section an owner contributes, or enters into a contract to contribute, to the cost of any connection or system, and that connection or system will serve any other land, the Council may require the owner of that other land to pay, or enter into a contract to pay, to the Council such amount as the Council considers fair and

reasonable towards the cost of that connection or system, and the owner of that other land shall comply with that requirement accordingly:

“Provided that if no residential, industrial, commercial, or other building is erected on that other land, the owner thereof shall not be required to make any such payment or enter into any such contract, except—

“(a) As a condition of the issue of a building permit for the erection of such a building on that other land; or

“(b) As a condition of the approval by the Council of a plan of subdivision of that other land. In any such case the liability of the owner under this subsection shall be in addition to his liability under any requirement of the Council under subsection (1) of this section as a condition of its approval of that plan of subdivision.”

31. Reserve contributions on subdivisions—(1) Section 351c of the principal Act (as substituted by section 26 (1) of the Municipal Corporations Amendment Act 1964) is hereby amended by inserting in paragraph (b) of subsection (5A) (as inserted by section 5 of the Municipal Corporations Amendment Act 1966), after the word “pay”, the words “or advance”.

(2) Section 351c of the principal Act (as so substituted) is hereby further amended by inserting, after the said subsection (5A), the following subsections:

“(5B) The Council may, subject to such terms and conditions as it thinks fit, advance any money to which subsection (4) of this section applies to the administering body of any public reserve in the district, being a reserve which is subject to the Reserves and Domains Act 1953.

“(5C) Any local authority or public body or administering body to which any advance is made under paragraph (b) of subsection (5A) or subsection (5B) of this section shall be deemed to have power to borrow the money so advanced.”

32. Plan approved subject to amalgamation or transfer of allotments—(1) Section 351D of the principal Act (as inserted by section 28 (1) of the Municipal Corporations Amendment Act 1959) is hereby amended by adding the following subsections:

“(4) Where, for the purpose of complying with any condition specified in subsection (1) of this section, any land is

amalgamated in one certificate of title with other land already subject to a registered instrument under which a power to sell, a right of renewal, or a right or obligation to purchase is lawfully conferred or imposed, and that power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised owing to the provisions of subsection (3) of this section, the power, right, or obligation shall be deemed to extend to the first-mentioned land as if that land were included in the instrument as part of the land to which it applies.

“(5) Where any instrument to which subsection (4) of this section applies is a mortgage, charge, or lien, it shall be deemed to have priority over any mortgage, charge, or lien against the land first-mentioned in that subsection which is registered subsequent to the issue of the certificate of title pursuant to subsection (1) of this section.”

(2) Section 351D of the principal Act (as so inserted) is hereby further amended by adding to subsection (3) the words “and also, in any case to which subsection (4) or subsection (5) of this section applies, that the land is subject to subsection (4) or, as the case may be, subsection (5) of this section”.

33. Appeals to Town and Country Planning Appeal Board—(1) The principal Act is hereby further amended by repealing section 351H (as substituted by section 29 of the Municipal Corporations Amendment Act 1964), and substituting the following section:

“351H. (1) The following persons may appeal in the prescribed manner to the Town and Country Planning Appeal Board constituted under the Town and Country Planning Act 1953 against any decision of the Council under section 351, or section 351A, or section 351BB, or section 351BC, or section 351BD, or section 351BE, or section 351C, or section 351CC, or section 351F, or section 351G, or section 351GG of this Act, namely:

“(a) Any person aggrieved by that decision:

“(b) The Council of any borough, town district, or county whose district adjoins that of the Council by which the decision was made.

“(2) The decision of the Town and Country Planning Appeal Board on any such appeal shall be final.”

(2) Section 29 of the Municipal Corporations Amendment Act 1964 is hereby consequentially repealed.

34. Gardens and lawns—The principal Act is hereby further amended by inserting, after section 362, the following heading and section:

“Gardens and Lawns

“362A. The Council, with the consent of the owner and subject to such conditions as may be agreed upon with the owner, whether as to payment to the Council by the owner or the use of the land by the public or any other conditions, may from time to time lay out and maintain gardens, shrubberies, and lawns on any private land in the district which is adjacent to buildings in any commercial or civic area and to any public place and which forms an integral part of the commercial or civic development of the district.”

35. Purchase and development of land for commercial or industrial purposes—Section 365A of the principal Act (as inserted by section 31 of the Municipal Corporations Amendment Act 1964) is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) The provisions of subsections (3) to (7) of this section shall apply with respect to land acquired before the twenty-seventh day of November, nineteen hundred and sixty-four (being the date of the commencement of the Municipal Corporations Amendment Act 1964), and owned for the time being by the Corporation for the general purposes of the district and not for any particular purpose, as if the land had been purchased under and in compliance with the provisions of subsection (2) of this section.”

36. Bylaws as to construction and repair of buildings—(1) Section 386 of the principal Act is hereby amended by repealing paragraph (14) of subsection (1), and substituting the following paragraph:

“(14) Regulating and controlling the construction, alteration, and repair of buildings as defined in the by-laws, including the design, construction, alteration, and repair of buildings in relation to their resistance to earthquake shocks:

“Provided that bylaws regulating and controlling the alteration or repair of buildings in relation to their resistance to earthquake shocks shall have effect only with respect to such parts of buildings as are being altered or repaired or whose resistance to earthquake shocks will be directly affected by the alterations or repairs:”

(2) Section 387 of the principal Act is hereby amended by omitting the words “design and construction”, and substituting the words “design, construction, alteration, and repair”.

(3) Section 31 of the Municipal Corporations Amendment Act 1959 is hereby consequentially amended by repealing subsection (2).

37. Bylaws as to secondhand timber—Section 386 of the principal Act is hereby amended by inserting in paragraph (15) of subsection (1), after the word “timber”, the words “(whether or not forming part of a building)”.

38. Bylaws as to amusement galleries and shooting galleries—(1) Section 386 of the principal Act (as amended by section 30 (2) of the Municipal Corporations Amendment Act 1959) is hereby further amended by adding to subsection (1) the following paragraph:

“(39) Defining, licensing, and controlling amusement galleries and shooting galleries.”

(2) Section 389 of the principal Act is hereby amended by inserting, after the words “billiard room” wherever they occur, the words “or amusement gallery or shooting gallery”.

39. Bylaws as to mobile or travelling shops—Section 386 of the principal Act is hereby further amended—

(a) By inserting in paragraph (28A) of subsection (1) (as inserted by section 31 (4) of the Municipal Corporations Amendment Act 1959), after the words “a licence fee”, the words “of such amount as the Council, in its discretion, thinks fit, but”:

(b) By inserting in the definition of the term “mobile or travelling shop” in subsection (2) (as added by section 33 of the Municipal Corporations Amendment Act 1964), after the words “(whether or not in pursuance of any invitation to call with the goods, wares, or merchandise)”, the words “or from which services are offered for sale in the road”.

40. Amalgamation of titles on issue of building permit—The principal Act is hereby further amended by inserting, after section 387A (as inserted by section 32 of the Municipal Corporations Amendment Act 1959), the following section:

“387B. (1) Where application is made to the Council for a permit under bylaws made under paragraph (14) of subsection (1) of section 386 of this Act authorising the erection of a

building over land of the applicant comprised or partly comprised of two or more allotments of an existing subdivision or existing subdivisions (whether comprised in the same certificate of title or not), the Council may, as a condition of the issue of a permit, require that a plan amalgamating that land into one allotment, or, where the circumstances render it expedient or desirable, into any two or more allotments, be deposited under the Land Transfer Act 1952, and a certificate or certificates of title under that Act be issued for the land in terms of the plan.

“(2) The Council may refuse to issue the permit until it is satisfied that the condition specified in subsection (1) of this section has been complied with and that the District Land Registrar has made on the certificate or certificates of title the entry required to be made thereon by subsection (5) of this section.

“(3) No such permit shall be issued subject to a condition specified in subsection (1) of this section if any of the land less than the whole is independently subject to any mortgage, charge, lien, or lease, unless two or more certificates of title are required to be issued and the land affected by the mortgage, charge, lien, or lease comprises or will comprise the whole of the land in one or more of those certificates of title.

“(4) Where—

“(a) The Council and the registered proprietor of the land in the said plan certify in writing to the effect that any certificate of title in his name or to be issued in his name has been issued or is required to be issued for the purpose of complying with a condition imposed under subsection (1) of this section; and

“(b) The certificate, or separate certificates, are lodged with the District Land Registrar, either—

“(i) When the request for the certificate or certificates of title is lodged; or

“(ii) After the issue of the certificate or certificates of title pursuant to that request but before the registration of any disposition of or dealing with part of the land in any such certificate of title,—

nothing in subsection (1) of section 353 of this Act shall apply to the land in any such certificate of title, and section 351 of this Act shall apply accordingly to any resubdivision of the land.

“(5) On receiving the certificate or separate certificates of the Council and the registered proprietor referred to in subsection (4) of this section, the District Land Registrar shall

make an entry on each certificate of title issued for the purpose of complying with a condition imposed under subsection (1) of this section and on the corresponding folium of the register, to the effect that the land referred to therein is subject to subsection (4) of this section.”

41. Power to join with other bodies to make bylaws—The principal Act is hereby further amended by inserting, after section 397, the following section:

“397A. (1) The Council may join with any one or more Borough Councils or Town Councils or County Councils in making bylaws to be in force throughout the boroughs and town districts and counties within the jurisdiction of the Councils making the bylaws:

“Provided that the power conferred by this section may be exercised only as regards matters in respect of which Councils of boroughs and of town districts and of counties have similar powers of making bylaws.

“(2) Where two or more Councils agree to make joint bylaws as aforesaid, they may do so either by holding separate meetings of each Council and passing similar special orders, or by meeting together either by one or more delegates from each Council, in which case the voting shall be by the delegates of each Council, or the majority of them, exercising one vote on behalf of the Council they represent.”

42. Contracts by Council—The Fifth Schedule to the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting from the proviso to clause 6 the expression “\$1,000”, and substituting the expression “\$10,000”.

This Act is administered in the Department of Internal Affairs.
