

Hon. Mr. Skinner

LAND SUBDIVISION IN COUNTIES

ANALYSIS

Title.	10. Reserves along seashore and banks of lakes, rivers, &c.
1. Short Title. Commencement.	11. Reserves for public purposes.
2. Interpretation.	12. Vesting of reserves, &c.
3. Scheme plan of subdivisions to be approved.	13. Disposal of moneys paid in lieu of reserves.
4. Conditions as to use of land.	14. Documents in contravention of Act not to be registered.
5. Chief Surveyor to hold scheme plan.	15. Local authority not to issue building permits in certain cases.
6. Variation or revocation of scheme plan or conditions imposed.	16. Exclusion of certain provisions of Public Works Act, 1928.
7. Motor-garage permits where building-line restriction imposed.	17. Delegation of Minister's powers.
8. Roads and rights-of-way.	18. Regulations.
9. Access-ways.	19. Removal of building erected contrary to condition.
	20. Offences.
	21. Repeals.

A BILL INTITULED

AN ACT to amend the Land Act, 1924, with respect to Title.
the Subdivision of Land outside Boroughs and
Town Districts.

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

10 1. (1) This Act may be cited as the Land Sub-
division in Counties Act, 1946, and shall be read
together with and deemed part of the Land Act, 1924
(hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. IV, p. 622

Commencement.

(2) This Act shall come into force on the *first day of January*, nineteen hundred and forty-seven.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,—

“Local authority” means a County Council or a Road Board or, in respect of any land which is not within the jurisdiction of a County Council or Road Board, means the Minister of Works: 5

“Minister” means the Minister of Lands, and includes any person for the time being authorized to exercise any of the powers of the Minister under this Act: 10

“Owner”, in respect of any land or interest therein, includes an owner thereof, whether beneficially or as trustee, and a mortgagee acting in exercise of power of sale, the Public Trustee, and any local authority, Board, or other body or authority, howsoever designated, constituted, or appointed, having power to dispose of the land or interest therein by way of sale: 15 20

“Sale” includes exchange, gift, devise, or other disposition affecting the fee-simple, and lease for any term (including renewals under the lease) of not less than three years; and also includes any disposition affecting the leasehold interest under any such lease as aforesaid: 25

“Surveyor” means a person for the time being registered as a surveyor under the Surveyors Act, 1938. 30

1938, No. 4

(2) For the purposes of this Act any division of land, whether into two or more allotments, shall be deemed to be a subdivision of that land for the purposes of sale if at least one of those allotments is intended for sale. 35

Scheme plan of subdivisions to be approved.

3. (1) Where any land outside a borough or town district is subdivided into allotments for the purposes of sale or for building purposes and any allotment, whether it is intended to be sold or not, has an area of less than ten acres, a scheme plan showing the proposed subdivision shall, unless the Minister otherwise determines, be prepared by a surveyor and submitted to the Minister for his approval. 40 45

(2) No person shall sell, or offer or advertise for sale, or build upon, any allotment in any subdivision to which this section applies, or form any proposed road in connection therewith, unless the scheme plan has
5 been previously approved by the Minister.

(3) Every scheme plan prepared for the purposes of this section shall show the whole of the land being subdivided and the several allotments and their areas and dimensions, and, in addition to existing roads,
10 reserves, and access-ways, and land affected by existing easements, shall also show the proposed roads and their approximate grades, the proposed reserves, Crown lands, and access-ways, the situation of any land to be affected by easements which are to be created and the
15 nature of the easements, and such other particulars as may be prescribed by regulations made under the principal Act.

(4) The Minister may in his absolute discretion refuse to approve any scheme plan or may approve the
20 plan either unconditionally or upon or subject to such conditions as he thinks fit:

Provided that before approving any scheme plan the Minister shall submit a copy thereof to the local authority for the comments of the local authority
25 thereon.

(5) Without prejudice to the generality of the *last preceding* subsection, the Minister may refuse to approve any scheme plan—

(a) If in his opinion closer subdivision or settlement
30 of the land shown on the scheme plan is not in the public interest or the land for any other reason whatsoever is not suitable for subdivision:

(b) If in his opinion adequate provision has not
35 been made for the drainage of any allotment or the disposal of sewage therefrom:

(c) If the subdivision would in his opinion interfere
40 with or render more difficult or costly the carrying-out of any public work or scheme of development which is proposed or contemplated by the Minister of Works or by any local authority:

(d) If in his opinion the proposed subdivision does not conform to recognized principles of town-planning.

(6) The Chief Surveyor shall give notice of any conditions upon or subject to which a scheme plan has been approved to the person who made application for the approval of the scheme plan. 5

(7) In any case where the Minister has refused to approve a scheme plan or has approved a scheme plan upon or subject to conditions any person aggrieved by the decision of the Minister may appeal in the prescribed manner to a Board to be appointed in that behalf by the Governor-General. The Board shall consist of a Magistrate and two other persons, one of whom shall be nominated by the Minister and one by the appellant. On any such appeal the decision of not less than two members of the Board shall be the decision of the Board, and the decision of the Board shall be final. 10 15

Conditions as to use of land.

4. (1) Without prejudice to the generality of subsection *four* of section *three* of this Act, the Minister may approve a scheme plan subject to all or any of the following conditions:— 20

(a) A condition restricting the use of all or any of the allotments shown on the plan: 25

(b) A condition restricting in the interests of public safety the use of land at road intersections or angles:

(c) A condition imposing a building-line restriction by restricting the use of land adjoining any road or access-way by prohibiting the erection of buildings within a specified distance of one of the side-lines or of the middle-line of the road or access-way, or between a specified line and one of the side-lines of the road or access-way. 30 35

(2) Any such condition as aforesaid shall be shown or referred to on the scheme plan and, where necessary, shall be more fully described in a separate notice signed by the Minister which shall be referred to on the scheme plan. 40

(3) For the purposes of paragraphs (b) and (c) of subsection *one* of this section, "road" includes a proposed road and any area of land which in the opinion of the Minister may be used for the purposes of a road in any further subdivision, and "access-way" includes a proposed access-way.

(4) Where a scheme plan has been approved subject to a condition imposing a building-line restriction the restriction shall be fully described in a separate notice and the Chief Surveyor shall forward a copy of the notice to the District Land Registrar or Registrar of Deeds, as the case may require, who shall deposit the copy in his office and register against the title to all land affected thereby a memorandum under his hand that the land is subject to the building-line restriction. Registration as aforesaid shall affect with notice of the building-line restriction all persons then having any estate or interest in the land and their successors in title.

(5) In every case where a building-line restriction affecting land shown in a scheme plan has previously been imposed under section one hundred and twenty-five or section one hundred and twenty-eight of the Public Works Act, 1928, or under any earlier enactment corresponding thereto, the Minister on the approval of the scheme plan shall either impose the same or some other building-line restriction or, with the approval of the local authority, declare the building-line restriction to be wholly cancelled, and in either case the building-line restriction previously imposed shall cease to have effect and the District Land Registrar or the Registrar of Deeds, as the case may require, shall amend his records accordingly. Notice of the cancellation of any building-line restriction by the Minister under the provisions of this subsection shall be given by the Chief Surveyor to the appropriate Registrar.

(6) In cases where the frontage on either side of any road has been set back by the operation of this or any other Act, or voluntarily by the owner, or by arrangement with the local authority or with any other authority, the side-line or the middle-line of the road

See Reprint
of Statutes,
Vol. VII, pp.
678, 681

shall, for the purposes of any building-line restriction, be taken to be the side-line or the middle-line of the road, as the case may be, as shown in the notice describing the building-line restriction.

Chief Surveyor
to hold scheme
plan.

5. (1) Every scheme plan approved by the Minister together with any notice of conditions restricting the use of any land shall be held by the Chief Surveyor. 5

(2) A copy of every scheme plan approved by the Minister together with a copy of any notice of conditions restricting the use of any land shall be forwarded by the Chief Surveyor to the local authority. 10

Variation or
revocation of
scheme plan
or conditions
imposed.

6. (1) Any scheme plan approved by the Minister may, on the application of the owner of any land affected thereby, be varied or revoked by the Minister as to the whole or any part of that land. 15

(2) Any building-line restriction or other condition of a class referred to in section *four* of this Act may, either on the application of the owner of any land affected thereby made with the approval of the local authority or on the application of the local authority, be revoked or from time to time varied by the Minister either wholly or as to any part of the land affected thereby. 20

(3) Any variation or revocation of the scheme plan or of any building-line restriction or other such condition, as aforesaid, shall be noted on the scheme plan and, where necessary, on the separate notice referred to in section *four* of this Act, and, in the case of a variation or revocation of any building-line restriction which has been registered by the District Land Registrar or Registrar of Deeds, the Registrar shall be given notice by the Chief Surveyor of the variation or revocation and shall register the same against the title to all land affected thereby. 25 30

Motor-garage
permits where
building-line
restriction
imposed.

7. (1) Where a building-line restriction has been imposed under the provisions of this Act in relation to the whole or any part of any road, then, notwithstanding anything to the contrary in this Act, the local authority may, with the approval of the Minister, grant permits for the erection of private motor-garages adjacent to the line of the road or to a line intermediate between the line of the road and the building-line. 35 40

(2) No such permit shall authorize the erection of any motor-garage the inside measurements of which exceed ten feet in width by twenty feet in depth by nine feet in height.

5 (3) Every such permit may be at any time cancelled by the local authority, and shall be so cancelled if the Minister so requires. Within one month after the date of the cancellation, or within such extended time as the local authority may in any case allow, the owner
10 shall remove the garage and shall not be entitled to any compensation in respect thereof. If the owner fails to remove the garage within the time specified, the local authority may remove it at his expense, and the cost of removal may be recovered in any Court of
15 competent jurisdiction as a debt due by the owner to the local authority.

(4) The local authority may charge such fee as it thinks fit for the issue of any permit under this section.

20 8. (1) The proposed roads shown on any scheme plan shall be laid off to the best advantage having regard to the position of existing roads in the locality and the possible future requirements in the district. Roads and
rights-of-way.

(2) Subject to the provisions of this section, the proposed roads shall be of such widths and have such
25 grades as seem to the Minister most suitable having regard to the matters aforesaid and probable traffic on the roads.

(3) The owner shall form and completely construct to the satisfaction of the controlling authority all
30 proposed roads shown on the scheme plan and shall, if so required by the controlling authority, construct footpaths and drains thereon.

(4) Without prejudice to the generality of the provisions of subsection *four* of section *three* of this
35 Act, it is hereby declared that in any case where in the opinion of the Minister there will be increased traffic on any existing road due to the subdivision and development in accordance with a scheme plan of land adjacent to, or near, the road, or a road reserve will
40 require to be formed for use as a road, the Minister may, as a condition of his consent to the approval of the scheme plan,—

- (a) Require that the owner pay, or enter into a binding contract to pay, to the controlling authority such amount as the Minister considers fair and reasonable for or towards the cost of new or additional road formation and construction or the provision of foot-paths: 5
- (b) Require that the owner dedicate, or obtain the dedication of, a strip of land for widening the road. 10
- (5) Land shown in the scheme plan as being land over which it is proposed to grant or reserve a right-of-way shall be of such width, be formed in such manner, and have such provision made as to the lighting and drainage thereof as may be required by the local authority. 15
- (6) If any dispute shall arise as to any requirements of any controlling authority or local authority under this section, the matter shall be referred to the Minister, whose decision shall be final. 20
- (7) Every proposed road and every piece of land shown on the scheme plan as road which is not legally vested in the Crown as road shall be dedicated by instrument in writing which shall be registered by the owner in the office of the District Land Registrar or, as the case may require, of the Registrar of Deeds. 25
- (8) The Registrar shall refuse to register any instrument of dedication or any instrument whereby any right-of-way is granted or reserved unless he is satisfied that the requirements of this section have been complied with. 30
- (9) In this section "controlling authority", in relation to any road or proposed road, means the Main Highways Board or the local authority in which the control of the road or proposed road is or will become vested, and in the case of a Government road within the meaning of Part VI of the Public Works Act, 1928, or a road or proposed road situated in a district which is not within the jurisdiction of any County Council or Road Board, means the Minister of Works. 40

9. (1) Subject to the approval of the Minister, **Access-ways.**
any scheme plan may provide for the laying-out of
access-ways complying with the provisions of this
section for the purpose of providing more direct access
5 for foot-passengers between any roads or other places
whatsoever to which the public are entitled to have
access.

(2) Every access-way shall be of a width approved
by the Minister and shall be used only for foot-
10 passengers; and the entrances thereto shall be so
fenced or barricaded that horses, cattle, or motor-
vehicles cannot enter the access-way.

(3) The owner shall form and completely construct
every proposed access-way to the satisfaction of the
15 local authority.

(4) If any dispute shall arise as to any require-
ments of the local authority under this section, the
matter shall be referred to the Minister, whose decision
shall be final.

(5) Every proposed access-way and every piece of
20 land shown on the scheme plan as access-way which
is not vested in the Crown as access-way shall be trans-
ferred to the Crown by instrument in writing which
shall be registered by the owner in the office of the
25 District Land Registrar or, as the case may require,
of the Registrar of Deeds, and the Registrar shall
refuse to register any such instrument as aforesaid
unless he is satisfied that the requirements of this
section have been complied with.

(6) The control and management of access-ways
30 created under this section shall vest in the local
authority, which shall have power to maintain and
repair any access-way.

(7) No person shall erect any building on any
35 allotment adjoining any access-way unless the allotment
has a frontage to a road or street.

(8) No person shall occupy any part of any allot-
ment adjoining an access-way unless that part of the
allotment has a frontage to a road, and no person
40 shall occupy any building or part of a building situated
on any allotment adjoining an access-way unless he
has an access to a road or street.

See Reprint
of Statutes,
Vol. I, p. 677

(9) No person shall be entitled to require from the Crown or any local authority any contribution under the Fencing Act, 1908, by reason of the ownership or control of any access-way by the Crown or the local authority.

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(10) Nothing in this section shall be construed to constitute any access-way a road.

Reserves along
seashore and
banks of lakes,
rivers, &c.

(11) (1) On every scheme plan submitted under the foregoing provisions of this Act there shall be set aside as reserved for public purposes a strip of land not less than sixty-six feet in width along the mean high-water mark of the sea and of its bays, inlets, or creeks, and along the margin of every lake with an area in excess of twenty acres, and, unless the Minister considers it unnecessary so to do, along the banks of all rivers and streams which have an average width of not less than ten feet:

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Provided that the Minister may approve the reduction of the width of the strip of land to a width of not less than ten feet if in his opinion the reduced width will be sufficient to give members of the public reasonable access to the sea, lake, river, or stream.

20

(2) In any case where a strip of land is set aside as required by the *last preceding* subsection and any land below the mean high-water mark of the sea or of its bays, inlets, or creeks or, as the case may be, any part of the bed of the lake or river or stream is not vested in His Majesty, the Minister may require as a condition of his approval of the scheme plan that the owner shall execute, or obtain the execution of, and register, a transfer to His Majesty of the whole or a specified part of the land below the mean high-water mark or, as the case may be, of the bed of the lake or river or stream which is not vested in His Majesty.

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(3) No land set aside as a reserve, or transferred to His Majesty, pursuant to this section shall be taken into account for the purposes of the *next succeeding* section.

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Reserves for
public purposes.

11. (1) In every case where the Minister is of opinion that the subdivision shown on a scheme plan is for building purposes, provision shall be made for reserves for public purposes as hereinafter appears.

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(2) Subject to the provisions of this section an area of land shall be set aside as reserved for public purposes amounting to not less than three perches for each allotment on the plan available for building purposes:

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(2) In any case where a strip of land is set aside as required by the *last preceding* subsection and any land below the mean high-water mark of the sea or of its bays, inlets, or creeks or, as the case may be, any part of the bed of the lake or river or stream is ~~not vested in His Majesty,~~ *vested in the person in whom the land shown in the scheme plan is vested,* the Minister may require as a condition of his approval of the scheme plan that the owner shall execute, or obtain the execution of, and register, a transfer to His Majesty of the whole or a specified part of the land below the mean high-water mark or, as the case may be, of the bed of the lake or river or stream which is ~~not vested in His Majesty,~~ *vested as aforesaid.*

(3) No land set aside as a reserve, or transferred to His Majesty, pursuant to this section shall be taken into account for the purposes of the *next succeeding* section.

11. (1) In every case where the Minister is of opinion that the subdivision shown on a scheme plan is for building purposes, provision shall be made for reserves for public purposes as hereinafter appears. Reserves for public purposes.

(2) Subject to the provisions of this section an area of land shall be set aside as reserved for public purposes amounting to not less than ~~three~~ *four* perches for each allotment on the plan available for building purposes:

New

Provided that in the case of any allotment with an area of more than one rood which in the opinion of the Minister will be used for business or industrial purposes the area to be set aside as aforesaid shall amount to not less than one-tenth of the area of the allotment:

Provided *also* that if on ~~the any other~~ subdivision of any ~~other~~ land, whether before or after the commencement of this Act, the owner has set aside in the same locality *as reserves* for public purposes an area in excess of the area that was required under the foregoing ~~provision~~ *provisions* of this subsection, or that would have been so required if this subsection had then been in force, or if the owner has otherwise given land in the same locality *as reserves* for public purposes, the area required to be set aside as a reserve for public

purposes under the foregoing provisions of this subsection may, if the Minister thinks fit, be reduced by the amount of the excess area set aside on that other subdivision or, as the case may be, by the area of the land otherwise given for public purposes. 5

(3) The area of land to be set aside as ascertained in accordance with the *last preceding* subsection is hereinafter in this section referred to as "the appropriate area".

(4) If in the opinion of the Minister it is undesirable or unnecessary to set aside as a reserve for public purposes any part of the land in the scheme plan or to set aside an area as great as the appropriate area, an area of land may be set aside as Crown land to be available for disposal by way of sale for cash under the principal Act. ~~and unless~~ 10 15

New

(4A) If owing to the smallness of the appropriate area or for any other cause no land is set aside as reserves or as Crown land, or if 20

the total area of land set aside as reserves and as Crown land ~~equals or is greater~~ *is less* than the appropriate area the Minister shall make it a condition of his approval of the scheme plan that an amount calculated as provided in the *next succeeding* subsection shall be paid to the Receiver of Land Revenue for the land district in which the land is situated within such time as the Minister may specify. 25
The Minister may require the owner or some other person to enter into a bond for the payment of the amount payable as aforesaid. Any such bond may, notwithstanding the provisions of the *next succeeding* subsection, provide that the amount payable shall be determined by reference to the amounts for which specified allotments or a specified number of allotments are sold, or in any other manner whatsoever. 30 35

(5) The amount to be paid under the *last preceding* subsection shall be ascertained by deducting from the appropriate area the total area of land (*if any*) set aside as reserves and Crown land under the foregoing provisions of this section, ascertaining the proportion which the resultant area bears to the total area of the building allotments shown on the scheme plan, and 40

taking that proportion of such amount as the Minister determines will be the value of the building allotments shown on the plan when the allotments are first available for sale:

- 5 **Provided** that any person aggrieved by a determination of the Minister as to the value of the building allotments may, while the Servicemen's Settlement and Land Sales Act, 1943, continues in force, appeal in the prescribed manner to the Land Sales Court against the
10 determination, and the decision of the Land Sales Court thereon shall be final and conclusive.

1943, No. 16

New

- (6) Without prejudice to the generality of the provisions of subsection *four* of section *three* of this Act,
15 it is hereby declared that the Minister may refuse to approve a scheme plan if he does not approve the particular land which it is proposed should be set aside as a reserve for public purposes.

- 20 **12.** (1) On the deposit under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908, of any plan of the subdivision of the whole or any part of the land shown on a scheme plan, all lands shown on the plan of subdivision as public reserves or as Crown land shall vest in His Majesty, free from encumbrances
25 other than such existing easements as may be approved by the Minister, and shall be held as provided in the *next succeeding* subsection:

Vesting of reserves, &c.
See Reprint of Statutes, Vol. VII, pp. 1162, 1143

- 30 **Provided** that no District Land Registrar or Registrar of Deeds shall deposit any plan of subdivision as aforesaid which includes land set aside as reserves or Crown land unless consent to the subdivision has been given in writing by every person having a registered interest in the land which may be prejudicially affected by the vesting of the land in His Majesty.

- 35 **(2)** Land shown as a public reserve which is vested in His Majesty under the *last preceding* subsection shall be held as a reserve set apart for the purposes indicated on the plan, and shall be subject to the provisions of the Public Reserves, Domains, and National
40 Parks Act, 1928. Land shown as Crown land which is vested in His Majesty under the *last preceding* subsection shall be held as land available for disposal for cash under the principal Act.

Ibid., Vol. VI, p. 1134

Disposal of
moneys paid
in lieu of
reserves.

13. (1) The Receiver of Land Revenue shall pay all moneys received by him pursuant to section *eleven* of this Act and in respect of the disposal of land vested in His Majesty as Crown land available for disposal as aforesaid to the credit of the Land for Settlements Account. 5

(2) The moneys may, without further appropriation than this section, be paid out of the Land for Settlements Account as directed by the Minister for any of the following purposes:— 10

(a) The purchase of land to be held as public reserves subject to the provisions of the Public Reserves, Domains, and National Parks Act, 1928: 15

(b) The improvement and development of public reserves subject to the provisions of that Act: 15

(c) Payment to any local authority or public body in which land is vested for the purpose of public recreation in order that the land so vested may be added to, improved, or developed: 20

(d) The refund to the owner who paid the moneys to the Receiver of the amount paid by him in any case where the scheme plan is revoked within one year after the date of the approval thereof. 25

(3) The Minister shall not direct any payment under paragraph (a) or paragraph (b) or paragraph (c) of the *last preceding* subsection unless he is of opinion that the expenditure of the moneys will be of some benefit to the residents of the locality in which the land included in the scheme is situated. 30

Documents in
contravention
of Act not to
be registered.

14. The District Land Registrar or Registrar of Deeds shall not ~~in any case~~ deposit any survey plan or register any document in any case where he is of opinion that the approval of the Minister to a scheme plan ~~under the foregoing provisions of this Act~~ is required *under the foregoing provisions of this Act* unless the Registrar is satisfied that a scheme plan has been so approved, that the survey plan or document is in accordance with the scheme plan, and that the whole of the roads, access-ways, public reserves, and Crown land shown on the scheme plan are, *or by the* 35 40

deposit of the survey plan or the registration of the document will become, public roads or vested in His Majesty as roads, access-ways, public reserves, and or Crown land or by the deposit of the survey plan or the registration of the document will become so vested, as the case may be.

15 15. If any local authority is of opinion, having regard to any building already erected on any land, that a proposed building is of such a character or will
 10 be so situated that the owner thereof may subsequently desire to subdivide the land, or that the erection thereof would be contrary to the purposes of this Act, it shall be the duty of the local authority to may refuse to grant a permit to erect the proposed building.

Local authority not to issue building permits in certain cases.

15 16. The provisions of sections one hundred and twenty-five and one hundred and twenty-eight of the Public Works Act, 1928, shall not apply with respect to the sale or subdivision of any land in accordance with a scheme plan approved by the Minister under the
 20 foregoing provisions of this Act.

Exclusion of certain provisions of Public Works Act, 1928. See Reprint of Statutes, Vol. VII, pp. 678, 681

17. (1) The Minister may from time to time, by writing under his hand, delegate to the Surveyor-General any of the powers conferred on him under this Act.

Delegation of Minister's powers.

25 (2) In any case where the Minister has delegated any powers to the Surveyor-General as aforesaid, the Surveyor-General may, with the approval in writing of the Minister, delegate such of those powers as the Minister thinks fit to any Chief Surveyor.

30 (3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister or the Surveyor-General.

35 (4) Any delegation under this section may be made subject to such restrictions and conditions as the Minister thinks fit, and may be either general or in relation to any particular case.

40 (5) Unless and until any delegation under this section is revoked, it shall continue in force according to its tenor. In the event of the Minister or the Surveyor-General by whom any such delegation has

been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister or Surveyor-General, as the case may be, and in the event of the Surveyor-General or Chief Surveyor to whom any delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Surveyor-General or as Chief Surveyor. 5

(6) The fact that the Surveyor-General or any Chief Surveyor exercises any power conferred on the Minister under this Act shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do. 10

Regulations.

18. In addition to the matters mentioned in section three of the principal Act, regulations may be made under that section for all or any of the following purposes:— 15

- (a) Prescribing methods of making applications under this Act, and forms and documents required under this Act: 20
- (b) Prescribing fees payable in respect of the examination of applications under this Act, in respect of the preparation of copies of scheme plans and notices, and in respect of other matters arising under this Act: 25
- (c) Regulating areas and frontages of allotments shown on scheme plans: 25
- (d) Regulating the widths of roads and making provision for the imposition of specified building-line restrictions in prescribed circumstances. 30

Removal of building erected contrary to condition.

19. (1) In any case where a building has been erected contrary to any condition imposed by the Minister under this Act, a Magistrate may, on the application of the Chief Surveyor or the local authority, order the owner to take down and remove, or shift, the building at his own expense. 35

(2) If the owner fails to comply with the order, the Minister or the local authority may take down and remove, or shift, the building and may recover from the owner in any Court of competent jurisdiction all costs and expenses incurred in connection therewith. 40

(3) The Minister or the local authority may destroy or sell or otherwise dispose of any materials taken from the building, and in the case of the sale of any materials shall apply the proceeds thereof towards the
5 expenses incurred under this section and pay the surplus (if any) to the owner.

(4) The exercise by the Minister or by the local authority of the powers conferred by this section shall not relieve any person from liability for failure to
10 comply with the order of the Magistrate.

(5) All moneys recoverable by the Minister or by the local authority pursuant to this section shall be a charge on the land whereon the building was erected. The charge shall, save as hereinafter provided, have
15 priority over all existing or subsequent mortgages, charges, or encumbrances howsoever created, including mortgages and encumbrances in favour of the Crown. Notwithstanding anything to the contrary in any other
20 enactment, if any land subject to a charge created by this section, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created by this Act.

25 **20.** (1) Every person commits an offence who acts in contravention of or fails to comply in any respect with the provisions of this Act or with any condition or requirement imposed by the Minister or a local authority acting under the authority of this Act or with any
30 order of a Magistrate under the *last preceding* section.

(2) Every person who commits an offence as aforesaid shall be liable on summary conviction to a fine of *one hundred* pounds and, if the offence is a continuing one, to a further fine of *five* pounds for every day
35 during which the offence continues.

(3) The continued existence of any building or any use of land which is contrary to any condition imposed by the Minister under this Act shall be deemed to be a continuing offence within the meaning of this section.

40 (4) Any information in respect of any offence to which this section applies may be laid at any time within three years from the time when the matter of the information arose.

Repeals.

21. (1) Sections sixteen and seventeen of the principal Act are hereby repealed.

(2) Where any plan of subdivision has been approved by the Minister under the said section sixteen or any corresponding earlier enactment, the plan shall be deemed to be a scheme plan and the approval shall be deemed to be an approval of a scheme plan for the purposes of this Act. 5

(3) Any building-line restriction that originated under the said section seventeen or any corresponding earlier enactment and that is in force on the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if it had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated. 10 15