

New Zealand.

## ANALYSIS.

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1906, No. 56.

AN ACT to amend "The Municipal Corporations Act, 1900." Title.  
[29th October, 1906.]

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

1. The Short Title of this Act is "The Municipal Corporations Amendment Act, 1906"; and it shall form part of and be read together with "The Municipal Corporations Act, 1900" (hereinafter referred to as "the principal Act"). Short Title.

2. (1.) Where a new borough is constituted and comprises the whole or any part of the area of a then existing district, the local authority of such district shall, during the period between the constitution of the borough and the date when the first Councillors of the borough come into office, continue to exercise its functions with respect to the area comprised in the new borough in like manner in all respects as if such area were still in its district and the new borough had not been constituted. Procedure until Councillors of new borough come into office.

(2.) Where the whole area of such district is comprised in the new borough the local authority of such district shall continue to exist during the aforesaid period.

(3.) The provisions of the principal Act as to financial and other adjustments shall extend to and include the aforesaid period.

3. Section twenty-four of the principal Act is hereby amended by adding thereto the following proviso:— Proceedings for raising loans.

"Provided that nothing herein shall affect the provisions of 'The Local Bodies' Loans Act, 1901,' and all proceedings for the

raising of loans in any borough shall be taken under that Act and not under this Act:

“Provided also that no proceedings heretofore taken for the raising of any loan shall be deemed to be invalid merely on the ground that the proposal was submitted under the one Act instead of under the other.”

Section 108 of principal Act amended.

4. Section one hundred and eight of the principal Act is hereby amended by adding the following provision:—

“Provided also that any such annual fee in respect of the cleansing of closets or privies may be a uniform annual fee for each pan in such closets or privies.”

Amended provisions with respect to leases.

5. (1.) Where a lease granted before the coming into operation of this Act under the provisions of paragraph (2) of section one hundred and ninety-two of the principal Act contains a provision that the lessee, his executors, administrators, and assigns, may at any time prior to the expiration of the term have a new lease for a further term not exceeding twenty-one years, containing the same covenants and provisions, at a rent to be fixed by valuation, such valuation shall be made without regarding the value of any buildings or improvements on the leased land.

(2.) The said section one hundred and ninety-two is hereby amended by inserting after the word “valuation,” in subparagraph (a), the words “of the land only, without regarding the value of any buildings or improvements thereon.”

Provisions as to surrender of leases.

6. (1.) The Council may by special order, on such terms as it thinks fit, accept a surrender of any lease, and may again, subject to the provisions of the principal Act, lease the land comprised in the surrendered lease, or, if it thinks fit, may grant to the former lessee a new lease for the remainder of the term of the surrendered lease at a rent to be fixed by the Council by special order either before or after the surrender, and on any terms or conditions authorised by the principal Act.

Repeal.

(2.) This section is in substitution for section one hundred and ninety-seven of the principal Act, which section is hereby accordingly repealed.

Section 294 of principal Act amended.

7. Section two hundred and ninety-four of “The Municipal Corporations Act, 1900,” is hereby amended by the insertion of the words “or wilfully allowing water to run to waste” after the words “any such apparatus.”

Section 335 of principal Act deemed to be amended from date of Act coming into force.

8. From the date of the coming into operation of “The Municipal Corporations Act, 1900,” section three hundred and thirty-five thereof shall be and be deemed to have been amended as follows, that is to say:—

- (a.) By adding the words “or contract with any other Corporation or person so to do” after the words “inhabitants of the borough”;
- (b.) By adding the words “or authorise any Corporation or person acting under any such contract to exercise” after the word “exercise” in paragraph (1) of the said section; and
- (c.) By inserting the words “subject as aforesaid” before the words “nothing contained” in the last paragraph of the said section.

9. (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, of an extent of not less than three hundred superficial feet. Open space to be provided for dwellinghouse.

(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, and shall be so maintained while the site is occupied by the dwellinghouse.

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

- (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; and
- (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 on vacant land or on 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 to or raising of an existing dwellinghouse (so far as such addition or raising is concerned), shall be deemed to be an erection of a new dwellinghouse within the meaning of this section.

(7.) The ground on 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.) For the purposes of this section, where the side boundaries of any site are not of the same length, the mean length of such side boundaries shall be taken as the depth of the site for the purpose of defining the distance across such open space.

(9.) The provisions of this section shall be deemed to be complied with if the open space at the rear and side of any dwellinghouse is equal to one and one-half times the area that would be required to be left at the side or at the rear if the provisions of this

section were complied with, even though the various sections hereof have not been strictly complied with :

Provided that the minimum distance across the open space so provided shall be clear of all obstructions for not less than fifteen feet from every part of the dwellinghouse.

(10.) This section shall not apply to hotels.

Lodginghouse  
list.

10. (1.) The Council may of its own motion, and shall whenever the District Health Officer recommends, from time to time make by-laws prescribing in respect of lodginghouses, hotels, and houses occupied by more than one family (hereinafter referred to as "lodginghouses")—

(a.) The minimum number of cubic feet which every bedroom must contain for each lawful occupant thereof ;

(b.) The minimum number of cubic feet which any living-room in the building erected after the coming into operation of the principal Act must contain ; and

(c.) The proportion that must obtain between the number of living-rooms in any lodginghouse and the number of persons who may lawfully occupy such lodginghouse.

(2.) As soon as may be after the making of such by-laws, and consistently therewith, the Council shall examine and classify all lodginghouses then existing in the borough, and determine as to each such lodginghouse the maximum number of persons who may lawfully occupy the same or lawfully sleep in any room of the same.

(3.) The Council shall prepare a list, called the "lodginghouse list," setting forth—

(a.) The situation and number or other distinguishing mark of each lodginghouse ;

(b.) The total number of living-rooms therein ;

(c.) The maximum number of persons that may lawfully occupy such lodginghouse ;

(d.) The number of cubic feet contained in each room ; and

(e.) The maximum number of persons who may lawfully sleep therein.

(4.) Such list shall be open for inspection for at least three weeks at the Town Hall or other principal office of the borough.

(5.) Objections to such list may be made and shall be disposed of, and the list may be amended and shall be settled and signed, in the manner hereinbefore prescribed in the case of the district electors list.

(6.) The lodginghouse list when so corrected, settled, and signed shall be the lodginghouse roll of the borough ; and, subject to such modifications as may be occasioned by the subsequent alteration of existing lodginghouses and erection of new ones, shall be sufficient evidence of the matters therein set forth.

(7.) The lodginghouse roll shall be made up annually, and shall be printed ; and for the purposes of evidence it shall be sufficient to produce what purports to be a printed copy thereof.

Illegal occupation  
of building.

11. (1.) Every person who knowingly permits any building to be occupied in breach of any of the two last preceding sections, or of any by-law made thereunder, is liable to a fine not exceeding two pounds for every day during which such breach continues.

(2.) Every lodginghouse erected after the commencement of this Act in breach of any of the provisions of the two last preceding sections shall be deemed to be unfit for occupation, and may be dealt with under section three hundred and forty-nine of the principal Act without the necessity for any certificate as therein mentioned.

12. Section three hundred and fifty-two of the principal Act, sections twenty-seven and twenty-eight of "The Municipal Corporations Amendment Act, 1902," and sections thirteen and fifteen of "The Municipal Corporations Amendment Act, 1903," are hereby repealed. Repeals.

13. The principal Act is hereby further amended as follows:— Miscellaneous amendments of principal Act.
- (a.) As to section forty-five thereof: By repealing the words "or to the respective special districts controlled by them," and the words "or special districts."
  - (b.) As to section seventy-three thereof: By repealing the words "corresponding to that."
  - (c.) As to section seventy-six thereof: By repealing the word "regulations" in paragraph (7), and substituting in lieu thereof the words "by-laws or resolutions."
  - (d.) As to section eighty-eight thereof: By repealing the words "as provided in this Act" in paragraph (8).
  - (e.) As to section ninety-nine thereof: By repealing the words "or subdivisions," and substituting in lieu thereof the words "or defined portion."
  - (f.) As to section one hundred thereof: By inserting, after the words "any ward," the words "or defined portion."
  - (g.) As to section one hundred and eighty-eight thereof: By inserting, after the words "In the second case, shall be," the words "either under the seal of the Corporation or."
  - (h.) As to section one hundred and ninety-four thereof: By repealing all words in paragraph (4) after the words "rent reserved shall," and substituting in lieu thereof the words "subject to the provisions of this section, be a rack-rent, without fine, premium, or foregift, but need not be uniform for the whole term."
  - (i.) As to section two hundred and three thereof: By repealing the words "Part II of" in subsection three.
  - (j.) As to section two hundred and eleven thereof: By repealing the words "right of way" in subsection two, and substituting in lieu thereof the words "private way."
  - (k.) As to section two hundred and fifty-four thereof: By inserting, after the word "overhanging," in paragraph (a), the words "or overshadowing."
  - (l.) As to section three hundred thereof: By inserting, after the words "theretofore constructed in," the words "or beyond."
  - (m.) As to section three hundred and one thereof: By repealing the word "burgesses," and substituting in lieu thereof the word "electors."
  - (n.) As to section three hundred and nine thereof: By inserting,

after the words "unavoidable accident," the words "or of shortage from any cause of the water-supply."

- (o.) As to section three hundred and sixty thereof: By inserting, after the word "technical," the words "or secondary," and by adding at the end of the section the words "and the establishment of such schools or farms shall for all purposes be deemed to be a public work."
- (p.) As to section three hundred and sixty-seven thereof: By repealing the word "four" in subsection two, and substituting in lieu thereof the word "five."
- (q.) As to section four hundred and three thereof: By inserting, after the word "exceptional," in paragraph (9), the words "or heavy."
- (r.) As to section four hundred and six thereof: By repealing the proviso to paragraph (2), and substituting in lieu thereof the following paragraph:—  
 "(2A.) Where two or more boroughs, or where a borough and some other district, are wholly or partly situate within five miles of one another, and are not separated by a navigable river, harbour, or arm of the sea, the several local authorities may agree that one of them shall collect the license fees for vehicles and drivers plying in any of the said districts; and the local authority so agreed on, after deducting ten per centum of the amount so collected to cover the cost of collection and supervision, shall distribute the residue rateably between the said districts in the proportion that the population of each bears to the total population of all."
- (s.) As to the Seventh Schedule thereto: By repealing the word "their" in clause four, and substituting in lieu thereof the word "the."
- (t.) As to the Thirteenth Schedule thereto: By repealing the words "county or" in clause two.

Section 29 of  
Amendment Act of  
1902 amended.

14. Section twenty-nine of "The Municipal Corporations Amendment Act, 1902," is hereby amended by repealing the words "section three hundred and sixty-two," and substituting in lieu thereof the words "sections three hundred and sixty-two to three hundred and sixty-seven."

Repeals.

15. Section two hundred and eighty-eight of "The Public Works Act, 1905," and section twenty of "The Education Act Amendment Act, 1905," are hereby repealed.