



ANALYSIS

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1964, No. 119

An Act to amend the Municipal Corporations Act 1954

[27 November 1964]

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 1964, and shall be read together with and deemed part of the Municipal Corporations Act 1954 (hereinafter referred to as the principal Act).

2. Ouster of office of Mayor or Councillor—Section 62 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “this Act”, the words “or any other Act or was on the date on which he was declared to have been elected incapable under this Act or any other Act”:
- (b) By omitting from subsection (2) the words “is incapable under this Act”, and substituting the words “is or was incapable as aforesaid”.

3. Special orders—Section 77 of the principal Act is hereby amended by omitting from paragraph (b) the words “forty-second day”, and substituting the words “seventieth day”.

4. Payment of expenses of officers undergoing course of study—Section 81 of the principal Act is hereby amended by inserting in subsection (1), after the word “meeting”, the words “or any course of study or training that in the opinion of the Council will render them better fitted to carry out their duties”.

5. How money to be withdrawn from bank—(1) The principal Act is hereby further amended by repealing section 87, and substituting the following section:

“87. (1) All money shall be paid by the Corporation in cash, or by cheque signed by the Treasurer or the Deputy Treasurer or any other officer of the Council whom the Council, by resolution, from time to time appoints for the purpose of signing cheques, and countersigned in each case by any Councillor whom the Council from time to time authorises to sign cheques:

“Provided that it shall be lawful in the case of any city, and with the prior consent of the Audit Office in any other case, for any money to be paid by the Corporation by cheque signed as aforesaid and countersigned by any officer of the Council whom the Council, by resolution, from time to time appoints for that purpose.

“(2) Every payment of money by the Council shall be authorised by a prior resolution of the Council or shall be submitted to the Council for authorisation at its next ordinary meeting.

“(3) Notwithstanding anything in subsection (1) of this section, it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit

Office prescribes, for any money to be paid by the Corporation by cheque bearing a facsimile of the signature of the Treasurer or of the signatures of the Treasurer or Deputy Treasurer and of any person authorised pursuant to the provisions of this section to countersign cheques, and every cheque bearing such a facsimile shall be deemed to have been duly signed and countersigned in accordance with the provisions of this section.”

(2) Section 6 of the Municipal Corporations Amendment Act 1959 is hereby repealed.

6. Water meters—Section 97 of the principal Act (as substituted by subsection (1) of section 8 of the Municipal Corporations Amendment Act 1959) is hereby amended by adding the following subsections:

“(3) Instead of making an annual charge for the use of any water meter, the Council may sell the meter on such terms as it thinks fit to the person receiving the supply of water, and in any such case may charge the person receiving that supply for any repairs to the meter that may subsequently be required from time to time.

“(4) No person other than an employee of the Council or a person authorised by the Town Clerk or the Engineer shall effect any repairs to any water meter sold by the Council under this section.

“(5) Charges made by the Council for repairs to any water meter sold by the Council under this section shall be deemed for the purposes of this Act to be charges in respect of the supply of water.”

7. Travelling allowances to members of committees—Section 113 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Where any member of any committee of the Council who is not a member of the Council attends any meeting of that committee or, with the authority of the committee, travels in the service of the committee, he shall be entitled to receive travelling allowances and expenses as if he were a member of the Council, and the provisions of the Fees and Travelling Allowances Act 1951 shall apply accordingly.”

8. Insurance of persons cutting grass on streets—The principal Act is hereby further amended by inserting, after section 119, the following section:

“119A. The Council may from time to time enter into contracts of insurance insuring persons who, otherwise than as employees of the Council or pursuant to a contract with the Council, voluntarily cut the grass on any street against claims for damages arising from personal injuries to or the death of any person or damage to property caused by so doing, and may pay the premiums payable in respect of those contracts.”

9. Accounts for money allocated for special purposes—Section 127 of the principal Act is hereby amended by inserting in paragraph (b) of subsection (1), after the words “or allocated”, the words “pursuant to any Act or by resolution of the Council”.

10. Council may grant easements—The principal Act is hereby further amended by inserting, after section 159, the following section:

“159A. The Council may grant, either in perpetuity or for a specified term and either in gross or appurtenant to any other land, any rights, easements, or privileges over any land held by the Corporation (not being a public reserve within the meaning of the Reserves and Domains Act 1953).”

11. Width of private ways—Section 169 of the principal Act is hereby amended by inserting, after subsection (6), the following subsection:

“(6A) Notwithstanding anything in subsection (6) of this section, the width of any private way may be increased in any case where the topographical features are such that it is impracticable to adhere to the width specified in that subsection.”

12. Vehicle crossings—The principal Act is hereby further amended by inserting, after section 178, the following section:

“178A. (1) Where vehicles are being taken on to or from any land across any footway or water channel otherwise than by means of a crossing properly constructed under the provisions of any bylaw made by the Council, the Council may, by notice in writing under the hand of the Mayor or Chairman, as the case may be, require the occupier or, in any case where there is no occupier, the owner of the land to pay to the Council such sum of money as the Council specifies as payment for the cost of the construction of a crossing by the Council.

“(2) Within twenty-eight days after the service of the notice, the occupier or owner, as the case may be, 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.

“(3) Where any such objection is received by the Council, the Council shall forthwith inquire into and dispose of the objection.

“(4) 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.

“(5) On the hearing of the application, the Court, whose decision shall be final, may—

“(a) Confirm the notice; or

“(b) Confirm the notice subject to a reduction in the sum payable to the Council by the occupier or owner, as the case may be; or

“(c) Set aside the notice.

“(6) Where—

“(a) In any case in which no such objection is made, the occupier or owner, as the case may be, fails to pay to the Council the sum specified in the notice within forty-two days after the service of the notice; or

“(b) In any case in which objection is made, the notice is confirmed by the Court (whether with or without any reduction in the sum payable to the Council), and the occupier or owner, as the case may be, fails to pay to the Council the sum specified in the notice, or, as the case may be, the sum specified in the order of the Court, within fourteen days after the giving of the decision of the Court,—

the Council may construct the crossing and recover the cost from him.

“(7) The said cost shall be recoverable by the Council as a debt from the occupier or owner, as the case may be, and, where it is recoverable from the owner, shall be a charge on the land.

“(8) Where any sum of money is paid to the Council by any occupier or owner pursuant to this section, the Council shall refund that sum to the occupier or owner if the crossing is not completed by the Council within six months after the date of the payment.”

13. Motor garages—The principal Act is hereby further amended by inserting, after section 178A (as inserted by section 12 of this Act), the following heading and section:

“Motor Garages

“178B. (1) Where a building-line restriction has been imposed under the provisions of this Act or any other Act in relation to the whole or any part of any street, then, notwithstanding anything to the contrary in this Act, the Council may grant permits for the erection of private motor garages adjacent to the line of the street or to a line intermediate between the line of the street and the building line:

“Provided that no such permit shall be granted in contravention of any provision made under an operative district scheme under the Town and Country Planning Act 1953.

“(2) Every such permit may be at any time cancelled by the Council. Within one month after the date of the cancellation, or within such extended time as the Council may in any case allow, the owner shall remove the garage and shall not be entitled to any compensation in respect thereof.

“(3) If the owner fails to remove the garage within the time specified, the Council may remove it at his expense, and recover the cost thereof from that owner as a debt.”

14. Laying out of private streets and private ways—Section 180 of the principal Act is hereby amended by omitting from subsection (1) the words “of footways”.

15. Change of name of street—Section 189 of the principal Act is hereby amended by adding to subsection (3) the words “A copy of the special order shall also be sent to the Chief Surveyor of the land district within which the land is situated.”

16. Transport services—Section 212 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to the provisions of Part VII of the Transport Act 1962, the Council may establish, maintain, and regulate services for the conveyance of passengers and goods (whether within the district or between any place in the district and any place outside the district), or may contribute to any such service established or maintained in the district.”

17. Overcrowding of buildings—Section 302 of the principal Act is hereby amended by adding the following subsection:

“(12) The provisions of this section shall not apply with respect to any dwellinghouse where an operative district scheme under the Town and Country Planning Act 1953 making provision with respect to the matters specified in clause 8 of the Second Schedule to that Act is for the time being in force in the district or in the part of the district in which the dwellinghouse is situated.”

18. Council may erect and maintain cabins and huts on camping grounds—(1) Section 305 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Without limiting the powers conferred on the Council by subsection (1) of this section, that subsection shall confer power on the Council, and be deemed always to have conferred power on the Council, to establish and maintain cabins and huts (not being self-contained cabins or huts), and conveniences and amenities for use by persons occupying such cabins or huts, on any camping ground that is on land held by the Council for the purposes of a pleasure ground.

“(1B) For the purposes of subsection (1A) of this section, a cabin or hut shall be self-contained if any of the following are provided or hired by the Council to or for the use of the persons occupying the cabin or hut, namely:

“(a) Toilet, kitchen, or bathroom facilities for the exclusive use of the occupants of that cabin or hut; or

“(b) Services of a direct personal nature, whether by way of meals or food or otherwise; or

“(c) Linen, blankets, crockery, cutlery, or cooking utensils.

“(1C) Except as provided in subsection (1A) of this section, the Council shall have no power to provide sleeping or living accommodation for use by any member of the public on land held by it for the purposes of a pleasure ground.”

(2) Notwithstanding the provisions of subsection (1) of this section, all buildings providing sleeping or living accommodation and established at the date of the passing of this Act, or established after that date pursuant to a resolution of a Council made not later than the first day of October, nineteen hundred and sixty-four, on any camping ground that is on land held by a Council for the purposes of a pleasure ground, and all conveniences, amenities, and services

provided at the date of the passing of this Act or, as the case may be, pursuant to such a resolution in conjunction with those buildings, shall be deemed to have been lawfully established or provided, and the Council is hereby authorised to maintain and provide the same.

19. Erection of blocks of flats and sale of flats—(1) The principal Act is hereby further amended by inserting, after section 330, the following section:

“330A. (1) In this section the term ‘flat-owning company’ means a company registered under the Companies Act 1955 the articles of association of which provide that the registered holder of specified shares in the company is entitled, by virtue of being the holder of those shares, to occupy a specified residential flat forming part of a building owned by the company.

“(2) The Council may, for the purpose of providing residential accommodation for persons desiring to own and personally occupy flats in blocks of flats erected by the Council,—

“(a) Acquire land and erect one or more blocks of residential flats thereon or erect one or more blocks of residential flats on land vested in the Corporation and not held in trust for any particular purpose other than housing:

“(b) Take all such steps as may be necessary for the purpose of forming and registering a flat-owning company:

“(c) On behalf of the Corporation, subscribe for shares in the company:

“(d) Transfer to the company any such block of flats together with the land appurtenant thereto in consideration of the allotment to the Corporation of shares in the company:

“(e) On behalf of the Corporation, acquire, hold, transfer, and otherwise dispose of shares in the company in accordance with the articles of association of the company:

“(f) Take all such steps as may be necessary to enable persons desiring to own and personally occupy flats in any such block of flats transferred to the company to become shareholders in the company:

“(g) Exercise such other incidental powers as may be necessary.”

- (2) Section 347 of the principal Act is hereby amended—
- (a) By inserting in paragraph (a) of subsection (1), after the words “three hundred and thirty”, the words “or three hundred and thirty A”:
 - (b) By inserting in the same paragraph, after the word “houses”, the words “or blocks of residential flats”.

20. Insurance leasehold-purchase schemes—The principal Act is hereby further amended by inserting, after section 331, the following section:

“331A. (1) The provisions of section 331 of this Act shall not apply with respect to any building allotment that is disposed of pursuant to an insurance company leasehold-purchase scheme operated by a financial institution.

“(2) In any such case the Council may lease any such allotment to any person desirous of erecting thereon a house for his personal occupation or of personally occupying a house already on the allotment, on such terms and conditions as the Council in its discretion thinks fit, including, but without limiting the generality of the provisions of this subsection, a provision that the lessee shall have the option of purchasing the fee simple of the land comprised therein at such price and on such terms and conditions as the Council in its discretion thinks fit.”

21. Sale of land for housing—The principal Act is hereby further amended by inserting, after section 334, the following section:

“334A. The Council may sell or lease by private contract or in accordance with section 153 of this Act any land which it has acquired under this Part of this Act or any other land vested in the Corporation and not held upon trust for any particular purpose other than housing to any person, company, or other organisation, subject to the condition that that person, company, or other organisation will build houses thereon for disposal by way of sale or lease to any person desirous of personally occupying the same.”

22. Powers of Council when plan of subdivision submitted for approval—(1) Section 351A of the principal Act (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby amended by adding to subsection (1) the following paragraph:

“(h) Approve the plan subject to such other fair and reasonable conditions of any kind whatsoever as the Council thinks fit.”

(2) Section 351A of the principal Act (as so inserted) is hereby further amended by adding to paragraph (g) of subsection (1) the word “or”.

23. Streets and street access—(1) The principal Act is hereby further amended by inserting, after section 351B (as inserted by subsection (1) of section 28 of the *Municipal Corporations Amendment Act 1959*), the following section:

“351BB. (1) Every allotment on a plan of subdivision submitted to the Council for its approval under this Part of this Act that does not have a frontage to an existing street or private street shall have a frontage to a street or private street to be provided by the owner which will give access to that allotment from some existing street or private street:

“Provided that nothing in the foregoing provisions of this subsection shall apply where—

“(a) The allotment is intended to be transferred to the owner of adjoining land; or

“(b) The allotment abuts upon any public navigable river or lake, or upon the seashore, and the Council is satisfied that reasonable access by means of that river or lake or by sea is afforded to the allotment and that it is not reasonable that the owner should be required to provide access by street or private street to the allotment, and the Council resolves that this subsection shall not apply.

“(2) For the purposes of paragraph (b) of the proviso to subsection (1) of this section, any land that is separated from a river or lake or from the seashore only by a reserve in respect of which the public has unrestricted rights of ingress, egress, and regress shall be deemed to abut on that river or lake or the seashore, as the case may be.

“(3) The provisions of sections 125 and 126 of the *Public Works Act 1928* shall not apply with respect to the sale or subdivision of any land in accordance with a plan of subdivision approved by the Council under the provisions of this Part of this Act:

“Provided that the provisions of subsections (5), (5A), (5B), and (5c) of the said section 125 shall apply with respect to the proposed streets and private streets shown on the plan of subdivision.

“(4) The provisions of subsections (3) and (3A) of section 170 of this Act and the provisions of section 186 of this Act shall not apply to any new or proposed street or private street shown on any plan of subdivision submitted to the Council for its approval under this Part of this Act, and the grade and width of any such street may be approved by the Council pursuant to this section.

“(5) Subject to subsection (6) of this section, every new or proposed street or private street shown on any plan of subdivision submitted to the Council for its approval under this Part of this Act shall be not less than sixty-six feet in width measured at right angles to its course, shall be laid off to the best advantage and with due regard to the requirements of the locality, and shall be of a grade approved by the Council.

“(6) Where it is difficult or inexpedient to lay off a new or proposed street or private street shown on any plan of subdivision submitted to the Council for its approval under this Part of this Act at a width of sixty-six feet throughout the whole of its length as required by subsection (5) of this section, and the Council is satisfied that any specified width, being not less than forty feet, is adequate for traffic over that street or private street, the width of that street or private street may be reduced to that specified width for the whole or such part or parts of its length as is approved by the Council:

“Provided that, except where the new or proposed street or private street will serve only industrial or commercial premises or where the Council is of the opinion that the imposition of such a condition would be detrimental to the best utilisation of the land to be subdivided, the Council shall make it a condition of its approval that, when new buildings are erected or any buildings are rebuilt or re-erected or are substantially rebuilt or re-erected on land having a frontage to any part of that street or private street which has a width of less than sixty-six feet, no part of any such building shall stand within such distance of the middle line of the street or private street as the Council specifies, being not less than thirty-three feet.

“(7) At the end of each cul-de-sac, if the Council so requires, there shall be provided a space which in the opinion of the Council is sufficient for turning vehicles.

“(8) In this section the terms ‘street’ and ‘private street’ do not include an access way or a service lane.”

(2) Section 351A of the principal Act (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby further amended by omitting from paragraph (g) of subsection (1) the words “section three hundred and fifty-one F of this Act”, and substituting the words “this Part of this Act”.

24. Subdivision of land fronting existing narrow street—

The principal Act is hereby further amended by inserting, after section 351BB (as inserted by section 23 of this Act), the following section:

“351BC. (1) The provisions of section 128 of the Public Works Act 1928 shall not apply to a subdivision to which this Part of this Act applies of any land which has a frontage to an existing street of a width less than sixty-six feet.

“(2) In any case where any allotment on a plan of subdivision submitted to the Council for its approval under this Part of this Act has a frontage to an existing street of a width less than sixty-six feet which—

“(a) Was not laid off or dedicated pursuant to a plan of subdivision previously approved by the Council or approved before the inclusion of the land in the district by the Governor-General or the Governor-General in Council or the Minister of Lands under the Land Act 1924 or the Land Subdivision in Counties Act 1946 or any other enactment or by a County Council or Road Board under the provisions of Part II of the Counties Amendment Act 1961; or

“(b) Is not a street to which the provisions of subsection (10) of section 125 of the Public Works Act 1928 apply; or

“(c) Is not already subject to a memorandum of acceptance or an Order in Council pursuant to section 128 of the last-mentioned Act,—

then, in any case where the Council is of the opinion that if that street were a new street to be provided by the owner to give access to that allotment it would require a street of a greater width, the Council may, as a condition of its consent to its approval of the plan of subdivision, require the owner to set back the frontage of that allotment to a distance sufficient to enable that street to be widened to the width that would be required by the Council for a new or proposed street of a like nature under section 351BB of this Act:

“Provided that the Council shall not require the owner to set back the frontage of that allotment to a distance from the middle line of the street as it originally existed greater than half the width of the street when widened to the width that would be required by the Council as aforesaid.

“(3) In every such case, the owner shall dedicate as a street the strip of land between the frontage line as so set back and the frontage line as previously existing, and thereupon the land so dedicated shall form part of the existing street.

“(4) The owner of the land so dedicated shall be entitled to compensation by the Council, to be claimed and ascertained under the Public Works Act 1928; and in assessing such compensation the Land Valuation Court shall take into consideration the necessity for or advantage of affording greater street space and the betterment deriving to the whole property affected, and any such betterment shall be a set-off against the compensation claimed.

“(5) In addition to the powers conferred on it by subsection (2) of this section, the Council may, in the case of any street or private street to which this section applies and which is not already subject to a building-line restriction, make it a condition of its approval of the plan of subdivision that when new buildings are erected or any buildings are rebuilt or re-erected or are substantially rebuilt or re-erected on land having a frontage to any part of that street or private street no part of any such building shall stand within such distance of the middle line of the street or private street as the Council specifies, being not less than thirty-three feet.

“(6) In this section the term ‘street’, does not include an access way or a service lane.”

25. Access ways and service lanes—The principal Act is hereby further amended by inserting, after section 351BC (as inserted by section 24 of this Act), the following section:

“351BD. (1) Subject to the approval of the Council, any plan of subdivision may provide for the laying out of access ways and service lanes complying with the provisions of this section and of Part I of the Public Works Amendment Act 1948. In their application to access ways and service lanes created under this section, the provisions of that Part shall be read subject to the provisions of this section and to section 352 of this Act.

“(2) Notwithstanding anything in section 3 of the Public Works Amendment Act 1948, a resolution of the Council shall not be necessary for the constitution of an access way or a service lane under the provisions of this section.

“(3) Every access way created under this section shall be of a width approved by the Council, being not less than four feet six inches nor more than twenty feet, measured at right angles to its course.

“(4) A service lane shall be of a width approved by the Council, being not less than twelve feet and not more than thirty-five feet, measured at right angles to its course:

“Provided that a service lane may be of any greater width for a distance of not more than twenty feet from where it meets any street or private street:

“Provided also that in the case of any service lane which has a blind end, if the Council so requires, there shall be provided in any part of the service lane a turning space of a width approved by the Council.

“(5) A service lane shall be of a grade approved by the Council.

“(6) The control and management of access ways and service lanes created under this section shall vest in the Council, which shall have power to maintain and repair any access way or service lane.

“(7) Notwithstanding anything in the foregoing provisions of this section, the width of any access way or service lane may be increased in any case where the topographical features are such that it is impracticable to adhere to the widths specified in the foregoing provisions of this section.”

26. Reserve contributions—(1) The principal Act is hereby further amended by repealing section 351c (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959 and amended by section 8 of the Municipal Corporations Amendment Act 1961), and substituting the following section:

“351c. (1) Notwithstanding anything in paragraph (c) of subsection (1) of section 351A of this Act, where in the opinion of the Council it is undesirable or unnecessary to require the owner to make provision for the making of reserves for public recreation or enjoyment,—

“(a) The Council may in lieu thereof make it a condition of approval that the owner shall pay a sum of money to the Council within such time as it may specify; or

“(b) The Council and the owner may agree that instead of making such a payment the owner shall set aside from the land in the subdivision an area of land to be vested in the Corporation equal to the area that would otherwise be required to be set aside as reserves for public recreation or enjoyment.

“(2) Notwithstanding anything in paragraph (c) of subsection (1) of section 351A of this Act, where in the opinion of the Council it is undesirable or unnecessary to require the owner to make provision for the making of reserves for public recreation or enjoyment to the full extent of the Council’s usual requirements, the Council may in lieu thereof make it a condition of approval that the owner shall pay a sum of money to the Council within such time as it may specify in addition to setting aside a smaller area of land for reserves for public recreation or enjoyment.

“(3) The Council may require the owner to enter into a bond for the due payment of any amount payable under the provisions of paragraph (a) of subsection (1) or subsection (2) of this section.

“(4) All money received by the Council under subsection (1) or subsection (2) of this section or from the sale or letting of any land vested in the Corporation pursuant to subsection (1) of this section shall be paid into a separate account, and shall be applied for the purchase of land to be held as public reserves subject to the provisions of the Reserves and Domains Act 1953 and the improvement and development of public reserves subject to the provisions of that Act, or for the improvement and development of other land (not being public reserves) as pleasure grounds or sports grounds, and so far as possible shall be so applied for the purchase of land or the improvement or development of public reserves or other land in the locality in which the land included in the plan of subdivision is situated.

“(5) Where any such money is applied in the improvement or development of any land (not being a public reserve) as a pleasure ground or sports ground, the land shall thereafter be held in trust by the Council for those purposes.

“(6) Every bond under subsection (3) of this section shall be deemed to create an interest in land for the purposes of section 137 of the Land Transfer Act 1952, and shall be deemed to be a covenant running with the land and shall bind subsequent owners accordingly.”

(2) Section 8 of the Municipal Corporations Amendment Act 1961 is hereby repealed.

27. Building-line restrictions—(1) Section 351F of the principal Act (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby amended by inserting in subsection (3), after the words “has been approved”, the words “under any provision of this Part of this Act”.

(2) Section 351F of the principal Act (as inserted as aforesaid) is hereby further amended by adding the following subsection:

“(5) Where a building-line restriction affecting any land has been imposed under any provision of this Act or any other enactment and the Council subsequently determines that the building-line restriction is no longer required, it may declare the building-line restriction to be cancelled. The Council shall send notice of the cancellation to the District Land Registrar or Registrar of Deeds, as the case may require, who shall amend his records accordingly.”

28. Unformed roads in abolished county—The principal Act is hereby further amended by inserting, after section 351G (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959), the following section:

“351GG. (1) This section shall apply in any case where the whole of an existing county is abolished and the area of that county, or any part thereof, is constituted a borough or that area or any part thereof together with any other area or areas is constituted a borough, or where an existing county is united with any other county, borough, or town district to form a borough.

“(2) In any such case where the Council is of opinion that owing to the subdivision and development of any land in accordance with a plan of subdivision submitted to it for its approval under this Part of this Act there will be increased traffic on any existing street fronting that land, or a street or street reserve will require to be formed for use as a street, the Council may, as a condition of its consent to the approval of the plan,—

“(a) Require that the owner 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 new or additional street formation and construction or the provision of footpaths, not exceeding in the case of additional street formation and construction or the provision of footpaths, half the estimated cost thereof:

“(b) Require that the owner dedicate, or obtain the dedication of, a strip of land for widening the street. The Council shall accept dedication of every such strip of land.

“(3) Nothing in section 351g of this Act shall apply in any case to which this section applies.”

29. Appeals to Town and Country Planning Appeal Board—(1) The principal Act is hereby further amended by repealing section 351H (as inserted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959 and amended by subsection (3) of section 9 of the Municipal Corporations Amendment Act 1961), and substituting the following section:

“351H. Any person aggrieved by the decision of the Council under section 351, or section 351A, or section 351BB, or section 351BC, or section 351BD, or section 351C, or section 351CC, or section 351F, or section 351G, or section 351GG of this Act 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, and the decision of that Board shall be final.”

(2) Section 9 of the Municipal Corporations Amendment Act 1961 is hereby amended by repealing subsection (3).

30. Deposit of survey plan—The principal Act is hereby further amended by repealing section 352, and substituting the following section:

“352. (1) In no case shall—

“(a) The plan of any land in the district which it is proposed to subdivide be deposited under the Land Transfer Act 1952, or in the Deeds Register Office; or

“(b) The transfer or conveyance or lease of any allotment or subdivision of any such land be registered under the Land Transfer Act 1952, or the Deeds Registration Act 1908; or

“(c) Any certificate of title be issued in respect of any such allotment or subdivision,—

unless—

“(d) The plan has been duly approved under section 351 of this Act; and

“(e) Where any land shown on the plan of subdivision will on the deposit of the plan vest in the Corporation pursuant to the provisions of this section, consent to the subdivision has, in the case of land subject to the Land Transfer Act 1952, been given in writing by the registered proprietor of every interest in the land that will vest as aforesaid, and, in the case of land not subject to that Act, by every person having an interest in the land that will vest as aforesaid if that interest is evidenced by an instrument registered under the Deeds Registration Act 1908; and

“(f) A certificate has been given in writing signed by the Town Clerk or the Engineer that all new streets, access ways, and service lanes shown on the plan have been formed and completed in accordance with the requirements of the Council or the formation and completion thereof have been provided for in accordance with the requirements of the Council.

“(2) Every consent under subsection (1) of this section shall be either endorsed on the plan or deposited with the District Land Registrar or Registrar of Deeds, as the case may require.

“(3) Notwithstanding anything in section 168 of the Land Transfer Act 1952, on the deposit as aforesaid of any approved plan, all land shown thereon as streets, or as forming part of existing streets, or as access ways or service lanes shall vest as such in the Corporation free of encumbrances.

“(4) On the deposit as aforesaid of any approved plan, all lands shown thereon as reserves shall vest in the Corporation of the district free from encumbrances, and shall be held as reserves set apart for the purposes indicated on that plan, and subject to the provisions of the Reserves and Domains Act 1953.

“(5) On the deposit as aforesaid of any approved plan, all land shown thereon as land to be vested in the Corporation in lieu of reserves shall vest in the Corporation free of encumbrances.

“(6) In any case where a plan of the subdivision approved by the Council is not deposited as aforesaid within a period of two years from the date of the approval thereof, or within such extended period as the Council in any special case may allow, that approval shall be deemed to have lapsed and fresh approval by the Council shall be necessary.”

31. Council may purchase and develop land for commercial or industrial purposes—The principal Act is hereby further amended by inserting in Part XXVI, after section 365, the following heading and section:

“Land for Commercial or Industrial Purposes

“365A. (1) In this section—

“‘Commercial or industrial purpose’ means any purpose of commerce, trade, or industry; but does not include the purposes of a farm, being a dairy farm, cattle farm, pig farm, sheep farm, market garden, orchard, apiary, nursery, poultry farm, or land used for the production for sale of crops of any kind; and ‘commercial or industrial allotment’ and ‘commercial or industrial building’ have meanings corresponding to the meaning of the term ‘commercial or industrial purpose’:

“‘Services’ includes water supply, sewerage, drainage, electricity, and gas.

“(2) The Council may from time to time, by agreement with the owner of any land within the district, purchase the land for commercial or industrial purposes, whether or not there are buildings on the land:

“Provided that the Council shall not purchase any land pursuant to the powers conferred by this subsection, unless it first gives notice in writing to the owner of the purpose or purposes for which the land is to be purchased.

“(3) The Council may subdivide or resubdivide any land purchased as aforesaid for commercial or industrial purposes into suitable allotments for commercial or industrial purposes, and may construct thereon streets, service lanes, and access ways, and such works as may be deemed necessary for the use, convenience, and enjoyment of the land for commercial or industrial purposes, and may provide services and develop the land as allotments for such purposes.

“(4) The Council may—

“(a) Sell any such commercial or industrial allotment upon such terms as in its absolute discretion it thinks proper to any person desiring to erect thereon one or more buildings to be used for commercial or industrial purposes:

“(b) Sell any such commercial or industrial allotment on which any building is erected upon such terms as in its absolute discretion it thinks proper to any person desiring to occupy that building for commercial or industrial purposes:

“(c) Lease any such commercial or industrial allotment upon such terms as in its absolute discretion it thinks proper to any person desiring to erect thereon one or more buildings to be used for commercial or industrial purposes:

“(d) Lease any such commercial or industrial allotment on which any building is erected upon such terms as in its absolute discretion it thinks proper to any person desiring to occupy that building for commercial or industrial purposes.

“(5) The provisions of sections 334 and 335 of this Act (which relate to land acquired under Part XXIV of this Act for housing purposes) shall apply with respect to land purchased under this section as if it had been acquired under the said Part XXIV.

“(6) All money received by the Council on the sale or lease of any land purchased under this section shall be paid by the Council into a separate account to be known as the Commercial and Industrial Development Account. Money in that account may be applied solely for the following purposes:

“(a) In the reimbursement of the General Account of an amount to cover administrative charges in respect of the purchase and development of any land purchased under this section for commercial or industrial purposes and the sale or lease thereof, not exceeding five per cent of the actual cost of the land to the Council and the development thereof (including survey fees and the cost of the provision of services):

“(b) In repayment of any money borrowed to meet any expenditure incurred under subsection (2) or subsection (3) of this section in respect of any land purchased under this section for commercial or industrial purposes, and any interest and sinking-fund payments in respect of any money so borrowed:

“(c) In reimbursement of the General Account or any other account of any money expended out of that account under either of the said subsections (2) and (3) in respect of any land purchased under this section for commercial or industrial purposes,—

and, after making the payments specified in paragraphs (a) to (c) of this subsection, may be applied for the purposes of any public work in the district.

“(7) The Council may from time to time raise a special loan under the Local Authorities Loans Act 1956 for any of the purposes mentioned in subsection (2) or subsection (3) of this section.

“(8) Nothing in this section shall derogate from the provisions of the Northcote Borough Empowering Act 1956.”

32. Bylaws as to posters, etc.—Section 386 of the principal Act is hereby amended by omitting from paragraph (9) the words “lamp posts”, and substituting the words “posts, trees”.

33. Bylaws as to mobile or travelling shops—Section 386 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of paragraphs (28A), (29), and (30) of subsection (1) of this section,—

“‘Mobile or travelling shop’ means a vehicle, whether, self-propelled or not, from which goods, wares, or merchandise are offered or exposed for sale in the street, or from which goods, wares, or merchandise may be ordered in the street (whether or not in pursuance of any invitation to call with the goods, wares, or merchandise); but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise pursuant to a prior order placed for the delivery of the goods, wares, or merchandise:

“‘Keeper’, in relation to any mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.”

34. Permits for temporary buildings—Section 387A of the principal Act (as inserted by section 32 of the Municipal Corporations Amendment Act 1959) is hereby amended by omitting from subsection (1) the words “pursuant to bylaws made under paragraph fourteen of section three hundred and eight-six of this Act”.

35. Contract bonds—The Fifth Schedule to the principal Act is hereby amended by omitting from clause 6 the words “and that penalty shall, in the case of default”, and substitut-

ing the words “and in the event of default the damages sustained by the Council up to the amount of the penalty shall”.

36. Stopping of streets—The Sixth Schedule to the principal Act is hereby amended by repealing clause 12, and substituting the following clause:

“12. The Chief Surveyor shall allocate a new description of the land comprising the stopped street, and shall forward to the District Land Registrar or the Registrar of Deeds, as the case may require, a copy of that description and a copy of the notice and the plans transmitted to him by the Council, and the Registrar shall amend his records accordingly.”

This Act is administered in the Department of Internal Affairs.
