

AN ACT to amend the several Acts relating to Municipal Corporations.

[1st September, 1880.]

MUNICIPAL CORPORATIONS ACTS AMENDMENT.

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 Acts Amendment Act, 1880.”

Short Title.

2. This Act shall be read subject to the interpretations respectively contained in “The Municipal Corporations Act, 1876” (hereinafter called “the said Act”), and in the several Acts amending the said Act.

Interpretation.

BOROUGH DIVISIONS.

3. Within fourteen days after the presentation of any petition or counter petition under any of the sections of the said Act numbered from seventeen to twenty-six, both inclusive, it shall be the duty of the petitioners to give notice in writing of such petition and the object thereof, with the names and addresses of the persons signing, with the amount their properties are valued on the valuation roll in force within the district, to the Council, Board, Trustees, or other governing body, by whatever name they may be known, of any borough, county, road or highway district, or other district directly affected by such petition.

Notice of petition to be given to adjacent local bodies.

4. Where the boundaries of a divided borough are altered under the provisions of section thirty of the said Act, the Governor, in the Proclamation making such alteration, may declare that the land proposed to be included within such borough shall be added to a particular ward thereof, or may declare what portions of such land shall be added to any of the wards of the borough respectively.

Land included in borough may be added to particular wards.

Where any alteration of the boundaries of a divided borough has at any time been made, the Governor, on petition of the Mayor and Council, by subsequent Proclamation publicly notified, may declare to which ward or wards respectively the land or any portion thereof included within the borough shall be added.

5. Subsection three of section twenty-five of the said Act is hereby repealed, and in lieu thereof it is enacted as follows :—

If one-third of burgesses, &c., opposed to incorporation, Proclamation not to issue.

If, within two months after the publication of such notice, a petition against such district being incorporated is presented to the Governor, signed by not less than one-third of the burgesses of the borough, or a petition against such district being incorporated, signed by an equal or greater number of ratepayers of the district proposed to be incorporated than was attached to the petition presented to the Governor praying for incorporation, in either case no such Proclamation shall issue.

6. Section twenty-one of “The Municipal Corporations Act Amendment Act, 1878,” is hereby amended by the addition of the following words :

Burgess-roll for election of Mayor and Auditors.

“ Provided that for the election of Mayor and Auditors in any such borough a Burgess-roll may be prepared comprising all the ratepayers of the borough.

When road district incorporated in borough, Auditor-General shall award amount of debts payable by Corporation.

7. In any case in which a road district shall have been or shall be incorporated in one or more boroughs, it shall be lawful for all persons to whom the district Board and ratepayers of such road district are or shall be indebted to lodge particulars of their debts with the Controller and Auditor-General, who shall hold an inquiry, and shall make an award as to the amount of such debts payable by the corporations of such boroughs respectively, and which award shall be final, and shall have the effect of an award under section thirty-three of the said Act.

In case any such corporation shall neglect or fail, within three months after notification to it of the sum payable by it under such award, to satisfy the said sum, it shall be lawful for the Supreme Court of New Zealand, at the instance of any or either of the said creditors, to make an order that such corporation shall levy a special rate for the purpose of paying such sum as aforesaid.

#### SPECIAL FUNDS—LOANS.

Moneys for special purposes to be kept in separate accounts.

8. All moneys raised by special loan, and moneys belonging to the borough which are appropriated for special purposes, shall be paid into separate accounts at the bank where the borough fund is kept. Such accounts shall be called by the names of such special loans and special funds, and shall not be expended or drawn out of such accounts except for the special purposes to which such moneys have respectively been appropriated or are intended to be appropriated.

Small boroughs may pay increased interest for loans.

9. Notwithstanding anything contained in section one hundred and fifty-two of the said Act, the interest on every debenture of any borough, the total annual revenue of which shall not exceed one thousand pounds, may exceed seven per centum on the amount thereof, but shall not exceed eight per centum on such amount in any case where such debenture is issued by the Council.

No such debenture shall be sold at such a price as to produce to the purchaser an interest of more than eight per centum on the price paid.

Proposal for special loans must be carried by more than one-half of burgesses.

10. Section one hundred and forty-three of the said Act is hereby repealed, and the following is substituted therefor:—

If the number of votes given for the proposal exceeds one-half of the total number of burgesses, the resolution in favour of the proposal shall be deemed to be carried, and the Council may proceed with the proposal accordingly; but if not, then the resolution shall be deemed to be rejected, and the Council shall not so proceed.

Deposit of general special loan at interest.

11. The Council may, in any case where it is deemed advisable that any sums of money at credit of general or special loan account should be placed on deposit at interest, deposit such sums of money with any bank offering the highest rate of interest.

Special rates to be applied to loan for which raised.

12. All special rates raised under “The Municipal Corporations Act, 1876,” or any Act amending the same, shall be applicable to the loan for which such special rates were authorized to be raised, and for no other purpose whatsoever.

#### INSPECTORS OF NUISANCES.

Inspector of Nuisances a Public Officer.

13. Every Inspector of Nuisances shall be deemed to be a Public Officer within the meaning of the term in the one hundred and forty-second section of “The Justices of the Peace Act, 1866.”

Appointments and warrants in urgent cases.

14. In any case of the absence of the Mayor, any two Councillors may, by direction of the Council, sign the warrant of appointment of any person as an Inspector of Nuisances, or sign any order requiring the owner or occupier of

any land or buildings within the borough to clean and purify the same, or to abate any nuisance therein or thereon.

In any of the events before provided for where the case requires immediate attention, the Mayor or any two Councillors may, without the direction of the Council, sign any such warrant or order; but the person or persons so signing shall report such case to the Council, at its first meeting, for confirmation.

## PRIVATE STREETS.

15. The Council may, by a special order, with the consent of the owners, declare any private street formed and constructed prior to the coming into operation of "The Municipal Corporations Act, 1876," notwithstanding that such private street is any less width than forty feet, to be, and such private street shall from the day named in such special order become, a public street.

Council may declare private streets public.

The provisions of the one hundred and eighty-fifth section of the said Act, and all other provisions of any Act affecting public streets, shall, from the day hereinabove mentioned, apply to such private streets.

## PRIVATE LANDS.

16. The power of the Council to adopt measures for preventing and suppressing nuisances in the borough shall extend over all private lands within the borough; and for this purpose the Council may, whenever the public health or safety shall render it necessary, by an order in writing, require the owner or occupier of any such lands—

Council may abate nuisances on private lands.

- (1.) To remove, or keep properly trimmed, any furze or other growth on such lands or in the hedges thereof, and remove any material, thing, or substance placed or being on such land which, from its age, size, or nature, has become of a dangerous character owing to its inflammable nature;
- (2.) To cleanse and keep open any ditch, gutter, watercourse, or drain thereon, and to remove any filthy or noisome waters accumulated in any part thereof.

If such owner or occupier wilfully neglects or refuses to comply with any such order, the Council may take such steps as it shall think fit for abating the nuisance, and such owner or occupier shall be liable to pay the costs thereof, which may be sued for and recovered by the Council as money owing by such owner or occupier for work and labour done founded on a contract.

17. Whenever the Council, acting under the last foregoing section of this Act, or under sections two hundred and thirty-six and two hundred and thirty-seven of the said Act, shall have incurred any cost in abating a nuisance upon unoccupied land within the borough, the owner of which shall be unknown or not known to be within the colony, such cost may be recovered by the Council in the same way in all respects, both as to procedure for obtaining judgment and in selling and conveying the land or otherwise, as unpaid rates may be recovered under "The Rating Act, 1876," or any Act amending or in substitution for the same.

Council may recover cost if owner unknown.

18. Where, under the said Act, or any amendment thereof, any notice is required to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such building or land, or left with some inmate of his abode; or, if there be no occupier, may be put up on some conspicuous part of such building or land. And it shall not be necessary in any such notice to name the occupier or owner of such building or land; Provided

Serving of notice upon owner or occupier.

always that, when the owner of any such building or land and his residence are known to the Council, it shall be the duty of the Council, if such owner be residing within the limits of the city or borough, to cause every notice required to be given to the owner to be served on such owner, or left with some inmate of his abode; and, if such owner be not resident within such city or borough, the Council shall send every such notice by the post addressed to the residence of such owner.

Owner liable for expenses incurred.

**19.** If the owner of any buildings or lands made liable by this Act, or the said Act, for the repayment to the Council of any expenses incurred by them, do not, as soon as the same become due and payable from him, repay all such expenses to the Council, the Council may recover the same from such owner in the same manner as damages, or in an action of debt, in any Court having jurisdiction.

Provided, further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

#### BY-LAWS.

Additional by-laws.

**20.** In addition to the powers of Borough Councils in respect of by-laws, as enumerated in Part XII. of the said Act, the Council of every borough may make further by-laws as provided therein:—

Sale of meat and provisions.

(a.) For regulating the sale of meat and perishable provisions, whereby the Council may prohibit the same to be sold or exposed for sale within the borough until inspected by one or more inspectors to be appointed from time to time by the Council:

Lodging-houses.

(b.) For the inspection of lodging-houses, whereby the Council may define and issue licenses for the same, and prohibit unlicensed houses within the borough; fix the number of lodgers to a proper amount of space in licensed houses; and prescribe the means that the owner shall take for proper ventilation, and protection from fire:

Hedges.

(c.) For dealing with hedges, whereby the Council may prohibit the planting of furze for this purpose, or any other growth it may consider to be likely to become of danger from its inflammable nature; provide for the proper trimming and care of any existing hedges of such materials respectively; and compel the cutting down or eradication from private lands of any such material which, from its overgrowth, has become or is likely to become of danger:

Chimneys.

(d.) For regulating and making provision for the construction of chimneys to carry away the smoke from steam-engines, and for insuring protection from sparks therefrom, and for the prevention of nuisances from smoke.

#### MISCELLANEOUS.

Council may control construction of cellars.

**21.** Where the owner or occupier of any ground proposes to construct a cellar within sixty-six feet from any street, road line, or any adjoining property, he shall give notice of his intention to the Council, and shall cause such cellar to be so constructed that it cannot become a receptacle for stagnant water or other impure matter.

May lease by tender.

**22.** The authority of the Council to lease lands by public auction, as provided in section one hundred and seventy-seven of the said Act, is hereby extended, and the said Council may, by resolution in Council, lease lands or buildings by public tender; Provided that all the conditions prescribed by the

aforesaid section are complied with in the same manner as if such leasing were by public auction.

**23.** The Council of any borough may, when necessary for the carrying out of any protective works, or for any object connected with the public health or safety, have the power to purchase land outside the boundary of the borough.

Empowered, when necessary, to purchase land outside borough.

**24.** When the Council is authorized to recover from the Council, Board, Trustees, or other governing body, by whatsoever name designated, of any district adjoining the borough, a proportion of the cost of any work done by the Borough Council, such proportion of cost shall be deemed to be money founded on contract and may be sued for and recovered as such.

May recover from adjacent local bodies for work done as if upon contract.

**25.** The Town Clerk may represent and act on behalf of the Council in all proceedings in a Resident Magistrate's Court, or in an Assessment Court under "The Rating Act, 1876," in the same manner as such Clerk is authorized to appear in proceedings before Justices by the seventh section of the said Act.

Town Clerk may represent Council in Court.

**26.** The sixtieth section of the said Act is hereby repealed, and henceforth every burgess enrolled in respect of rateable property in one or more wards shall be qualified to be a Councillor of the borough or of any ward thereof.

Qualification of Councillors.

**27.** Section one hundred and eighty-five of the said Act is hereby amended by the addition of the following words:—

Streets in part of gold field constituted a borough vested in Council.

When any district, being part of a gold field, is or has been constituted a borough under this Act, all rights or powers to, or over, or upon streets within such borough granted to any Warden, license-holder, lessee, or other person under any provision of any Act made, or that hereafter may be made, relating to mining for gold or other minerals shall cease, and be hereafter null and void; and the Council of the borough alone shall have the power above-mentioned in respect to streets within such borough.

**28.** Whereas at the time of the passing of the said Act certain by-laws and regulations, which had been made in pursuance of certain statutory powers by the Municipal Corporations respectively which are mentioned in the Third Schedule of the said Act, were in force in the several and respective places specified in the said Schedule: And whereas several of the said places specified in the said Schedule have become boroughs under the said Act: And whereas doubts have existed as to whether such by-laws and regulations as aforesaid remained in force after the passing of the said Act: Be it therefore hereby declared and enacted as follows:—

By-laws and regulations in force in places specified in Third Schedule of said Act before the passing thereof deemed to have remained in force as though such Act had not been passed.

All by-laws and regulations whatsoever (save and except as hereinafter mentioned) which immediately before the passing of the said Act were in force within the said places respectively which are specified in the said Third Schedule of the said Act, shall be deemed to have remained in as full force and effect to all intents and purposes as if the said Act had not been passed, and whether or not such places as aforesaid shall have become such boroughs as aforesaid; and all such by-laws and regulations (save and except such of the same as have been expressly repealed or altered by any by-law or by-laws made under the authority of the said Act), shall continue in force until altered or repealed in the manner provided by the said Act.