

*Right Hon. Mr. Forbes.*

## BUILDING CONSTRUCTION.

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### A BILL INTITULED

AN ACT to make Better Provision for the Design and Construction of Buildings with a View to the Protection of Life and Property from Damage by Earthquake or other Natural Disaster. Title.

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

1. This Act may be cited as the Building Construction Act, 1931. Short Title.
2. (1) In this Act, unless the context otherwise requires,— Interpretation.
  - 10 “Building” means any structure enclosed or partially enclosed within walls and having a roof thereto, and includes the site and foundations thereof:
  - “District” means a county, borough, town district, or road district:
  - 15 “Local authority” means a Borough Council, County Council, or Town Board; and in counties in which the Counties Act, 1920, is suspended or is not in force includes a Road Board:
  - “Minister” means the Minister of Public Works.
- 20 (2) Without limiting the ordinary meaning of the expression “substantial alteration” in relation to buildings, every alteration of a building which tends or may tend to reduce its resistance to earthquake

shock shall be deemed to be a substantial alteration for the purposes of this Act.

(3) The Governor-General may from time to time, by Order in Council, exclude from the operation of this Act structures of any specified class or classes, being buildings as hereinbefore defined, if in his opinion the application of this Act to such structures is not required in the public interest. 5

(4) In like manner the Governor-General may, if he thinks fit, by Order in Council, declare that structures of any specified class or classes, not being buildings as hereinbefore defined, shall be deemed to be buildings for the purposes of this Act. 10

(5) Every Order in Council under this section may be at any time in like manner varied or revoked.

Buildings not to be erected or substantially altered without permit from local authority.

3. (1) It shall not be lawful for any person after the commencement of this Act to erect any building, or to commence or to continue the erection of any building, or to reconstruct or substantially alter any building, in any district without a permit from the local authority of that district. 15

(2) While any regulations or by-laws are in force under this Act in the district of any local authority a permit shall not be issued for the erection, reconstruction, or alteration of any building in that district, except in conformity with the provisions of such regulations or by-laws. 20

(3) Nothing in this Act shall be construed to limit the powers conferred on any local authority independently of this Act in relation to building-permits or other permits in respect of works proposed to be undertaken in the district of that local authority. 25

Local authorities may make by-laws as to building construction, &c.

4. (1) Every local authority shall have power to make by-laws for the several matters and purposes specified in the Schedule hereto and for matters incidental thereto. Any such by-laws may be made to apply throughout the whole district of the local authority or within a defined part or defined parts thereof only. 30

(2) A copy of every such by-law, under the seal of the local authority, shall, within seven days after the making thereof, be sent by the local authority to the Minister, who may at any time thereafter by notice published in the *Gazette*, disallow the same in whole or in part. The Minister may in like manner at any time disallow in whole or in part any by-laws with respect to any of the matters mentioned in the Schedule hereto made by any local authority, whether before or after the passing of this Act, pursuant to the authority of any Act other than this Act. 35 40

(3) On the publication of such notice in the *Gazette* the by-laws or part thereof so disallowed shall cease to have effect, but such disallowance shall not affect the validity of anything theretofore done.

(4) Subject to the provisions of the *next succeeding* section, by-laws made under the authority of this Act shall, in case of conflict, prevail over any regulations made thereunder. 45

Minister may require local authority to make by-laws.

5. (1) The Minister may at any time require any local authority to make by-laws for any of the purposes mentioned in the Schedule hereto, or to revoke, alter, or add to any by-laws made for any such purposes, whether or not such by-laws have been made under the authority of this Act, and whether or not they have been approved by the Minister. 50

(2) If a local authority does not within three months after the receipt of a requisition from the Minister make, revoke, alter, or add to any by-laws in the manner required by such requisition, or if a local authority at any time signifies to the Minister its intention of failing to comply with such requisition, the Governor-General may by Order in Council make such regulations as he thinks fit to give effect to such requisition, and such regulations shall for all purposes be deemed to be, and shall have the same force and effect as, by-laws made by that local authority and approved by the Minister.

(3) In addition to the powers conferred on him by the foregoing provisions of this section, the Governor-General may by Order in Council make regulations with respect to the erection, reconstruction, or substantial alteration of buildings within the limits of any harbour, as defined by the Harbours Act, 1923, and not being within the district of any local authority as defined by this Act.

6. (1) The Governor-General may by Order in Council prescribe model by-laws for the purposes of this Act, which may, subject to the provisions of section *five* hereof, be adopted in whole or in part and with or without variation by any local authority by resolution passed by that local authority, or may, at the request of any local authority, be applied by the Minister to the district of that local authority, or to any defined part or defined parts of that district, by notice published in the *Gazette*.

Governor-General may make model by-laws for purposes of this Act.

(2) Model by-laws made under the authority of this section shall have no application except within a district or part of a district to which they are applied in accordance with this section.

7. Every local authority to which application for a building-permit is hereafter made shall, if required so to do by the Minister, furnish him with copies of all plans, sketches, calculations, specifications, and other particulars supplied to that local authority by or on behalf of the applicant for such permit. All such copies shall be prepared and supplied at the expense of the applicant for such permit.

Minister may require submission of plans and other particulars of buildings.

8. (1) In order to ascertain whether or not the requirements of this Act, or of any regulations or by-laws thereunder, are being or have been observed in respect of any building, the Minister or any person appointed or instructed by him for the purpose, or any person acting in any district by direction or with the authority of the local authority for that district, may at any time during the daytime, or at any other time while work is being done for which a permit is required, enter upon and examine the site of any building for the erection of which application for a permit has been made or for which a permit has been granted, or any building in course of erection, reconstruction, or substantial alteration, or any building after the completion of the work for which a permit has been granted.

Powers of entry on land and buildings for purposes of inspection.

(2) In addition to the powers conferred by the *last preceding* subsection, the Minister or any other person acting under the authority of that subsection may, in relation to any building as aforesaid, do anything which in his opinion is necessary to enable him to determine whether or not the requirements of this Act or of any regulations or by-laws thereunder have been complied with.

(3) Every person commits an offence and is liable on summary conviction to a fine of *one hundred* pounds who obstructs or interferes with the Minister or any other person as aforesaid, in the exercise or performance of his powers and duties under this Act.

Local authorities to obtain services of technical adviser.

9. For the purpose of securing the proper examination of plans and of other particulars submitted in relation to buildings, and generally for the purpose of ensuring the effective administration of this Act, every local authority shall, either by the appointment of an officer with the requisite technical qualifications or by special agreement with a qualified person, take steps to obtain, and at all times to retain, the services of a competent technical adviser. 5 10

Local authority may by special arrangement with Minister obtain services of qualified officers of Public Works Department.

10. Any local authority, in lieu of appointing any officer or officers to the staff of such local authority for any of the purposes of this Act, or in lieu of obtaining the services of any person by agreement under the *last preceding* section, may arrange with the Minister for the performance by an officer or officers of the Public Works Department of the duties of technical adviser to such local authority for the purposes of this Act, or for the exercise by any such officer or officers of any powers of inspection or other powers which may be necessary for the effective administration of this Act. In any such case the local authority shall pay into the Public Account such sums as may be agreed on between the Minister and the local authority towards the salary and expenses of any officer or officers as aforesaid. 15 20

Clerk of works.

11. (1) If the owner or other person required by any by-laws or regulations under this Act to appoint a clerk of works or other qualified person to supervise the erection, reconstruction, or substantial alteration of any building fails to make such appointment, or appoints a person whose appointment is not acceptable to the local authority, the local authority or the Minister may appoint a qualified person for the purpose, and in such case may recover from the owner as a debt due to the local authority or the Crown, as the case may be, all expenses, including salary, incurred in respect of such appointment. 25 30

(2) Before issuing a permit for the erection, reconstruction, or alteration of any building in any case in which, for the supervision of the proposed work, the employment of a clerk of works or other qualified person is required in accordance with regulations or by-laws as aforesaid, the local authority may require the applicant for such permit to deposit an amount not exceeding the estimated amount to be paid to the clerk of works or other person as aforesaid in respect of his services, or to give security to the satisfaction of the local authority for the due payment of such amount. 35 40

Demolition, removal, or alteration of building or work erected or done in contravention of law.

12. (1) The local authority in whose district any building is erected, reconstructed, or substantially altered, or any other work or thing in relation to any building is done in contravention of this Act or of any regulations or by-laws thereunder, may by requisition in writing require the owner of such building or of the premises on which such work or thing has been done to pull down, remove, or alter such building, work, or thing, within such time and in such manner as may be therein specified. 45

(2) If the owner fails to comply with such requisition, any Magistrate's Court may, on the application of the local authority, make an order that the building, work, or thing, or that any specified 50

part thereof be pulled down and removed at the expense in all things of the owner, within such time as may be specified in the order, or that alterations satisfactory to the local authority be carried out within a specified time.

5 (3) Every application under this section shall be heard and determined in a Magistrate's Court before a Stipendiary Magistrate alone, and the Court for the purpose of hearing and determining the application shall have all the powers vested in it in its ordinary civil jurisdiction.

10 (4) The procedure for the hearing and determination in the Magistrate's Court of an application under this section shall be in accordance with regulations to be made under this Act, and, subject to such regulations or so far as they do not extend, shall be in accordance with the ordinary procedure of that Court.

15 (5) In such proceedings, the Magistrate's Court may award such costs as it deems just, either against the local authority or the owner.

(6) If the owner of any building, work, or thing fails to comply with an order issued in respect thereof pursuant to this section, he shall be liable on summary conviction to a fine of *fifty* pounds; and the local authority may proceed to pull down, remove, or alter any building, work, or thing in effective compliance with such order, and may recover from the person in fault all expenses reasonably incurred by it in or about the exercise of the powers conferred by this section.

20 (7) All expenses incurred by a local authority as aforesaid shall until repaid to the local authority constitute a charge on the land in respect of which they were incurred.

(8) The exercise by a local authority of the powers conferred by this section shall not relieve any person from liability to any penalty for the breach of the provisions of this Act or of any regulation or by-law thereunder.

30 13. (1) In respect of all buildings for the erection, reconstruction, or alteration of which a permit is granted for the purposes of this Act by any local authority after the first day of January, nineteen hundred and thirty-two, a special fee at the rate of *one-fourth* of *one* per centum of the cost of such erection, reconstruction, or alteration, as the case may be, or at such less rate as may from time to time be prescribed, shall be payable into the Public Account.

35 (2) So much of the proceeds of such special fee as may from time to time be prescribed, not exceeding in respect of any building *one-eighth* of *one* per centum of the amount on which such fee has been computed, shall be applied towards the cost of the administration of this Act, and the residue shall be applied, in accordance with the appropriation of Parliament, in payment of the expenses incurred by or with the approval of the Department of Scientific and Industrial Research or other Department of State for investigations undertaken with a view to the improvement of building-designs in relation to earthquake resistance.

40 (3) The special fee payable under this section in respect of any building shall be assessed on the cost of the work, and shall be paid by the applicant for a permit before the issue thereof. The special fee in respect of any building shall be paid in the first place to the local authority by which a permit is issued, and shall be paid by such local authority into the Public Account.

Special fee in respect of building-permits to provide funds for investigations in relation to building-designs.

(4) For the purposes of this section the cost of the erection, construction, or alteration of a building shall be the total cost of the work, exclusive of the fees payable to any person in respect of its design or supervision, but inclusive of the costs of preparing foundations or other like work in relation to any building.

(5) Every application for a permit shall contain an estimate of the cost of the work to which the permit relates. If any dispute arises between a local authority and the applicant for a permit as to the cost of any work for the purposes of the computation of the special fee under this section, it shall be determined by arbitration.

General penalty  
for offences.

14. Every person who by any act of omission or commission commits a breach of any by-law or of any regulation made under this Act, or who commits a breach of any of the provisions of this Act for the breach of which no other penalty is expressly provided, shall be liable on summary conviction to a fine of *one hundred* pounds, and in the case of a continuing offence to a further fine of *twenty-five* pounds for every day or part of a day during which such offence continues.

Regulations.

15. (1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and in particular may make regulations—

(a) Prescribing the rate of the special fee to be charged under this Act in respect of the cost of the erection, reconstruction, or substantial alteration of buildings, and providing for the apportionment of the proceeds of such special fee in accordance with this Act:

(b) Prescribing the qualifications to be possessed by persons employed for the purposes of this Act as technical advisers to local authorities or as clerks of works.

(2) All regulations made under the authority of this Act shall be published in the *Gazette*, and shall be laid before Parliament within fourteen days after the date of such publication if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

Repeal.

16. Section forty-one of the Finance Act, 1931 (No. 2), is hereby repealed.

**SCHEDULE.**

**Schedule.**

**SUBJECT-MATTER OF BY-LAWS RELATING TO DESIGN AND CONSTRUCTION OF BUILDINGS.**

1. The design and construction of buildings and methods of building construction.
2. Heights of buildings.
3. Forces to be allowed for in the design of buildings.
4. Working-stresses or loads allowable in construction of buildings.
5. Materials to be used in construction of buildings, and the qualities and proportions of such materials.
6. Fire prevention and control.
7. Means of ingress to and egress from buildings.
8. The plans, sketches, calculations, specifications, and other particulars to be submitted for approval of the local authority in relation to buildings, and the verification thereof.
9. Procedure in relation to application for and issue of building permits.
10. Requiring in respect of the erection, reconstruction, or alteration of any building, the appointment of a clerk of works or other qualified person whose duties shall include an obligation forthwith to report to the local authority concerned if and whenever he becomes aware that the requirements of the by-laws in relation to the erection of such building are not being complied with.
11. Conditions subject to which buildings erected for any purpose or purposes may be used for any other purposes.
12. The fees payable to local authorities for building permits in addition to the special fees charged under this Act.