

Right Hon. Mr. Forbes.

BUILDING CONSTRUCTION.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Buildings not to be erected or substantially altered without permit from local authority.</p> <p>4. Local authorities may make by-laws as to building construction, &amp;c.</p> <p>5. Minister may require local authority to make by-laws.</p> <p>6. Governor-General may make model by-laws for purposes of this Act.</p> <p>7. Minister may require submission of plans and other particulars of buildings.</p> <p>8. Powers of entry on land and buildings for purposes of inspection.</p>	<p>9. Local authorities to obtain services of technical adviser.</p> <p>10. Local authority may by special arrangement with Minister obtain services of qualified officers of Public Works Department.</p> <p>11. Clerk of works.</p> <p>12. Demolition, removal, or alteration of building or work erected or done in contravention of law.</p> <p>13. Special fee in respect of building-permits to provide funds for investigations in relation to building-designs.</p> <p>14. General penalty for offences.</p> <p>15. Regulations.</p> <p>16. Repeal, Schedule.</p>
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A BILL INTITULED

AN ACT to make Better Provision for the Design and Construction of Buildings. Title.

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5 with a View to the Protection of Life and Property from Damage by Earthquake or other Natural Disaster.

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

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| 10 | 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. |

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15 “ Building ” means any structure enclosed or partially enclosed within walls and having a roof thereto, and includes the site and foundations thereof :

*New.*

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| 20 | “ Building ” includes—   |
|    | (a) Any structure enclosed or partially enclosed within walls and having a roof thereto :                  |
|    | (b) Any grandstand, stadium, or other structure in which seating or standing accommodation is provided for |

*New.*

the public at any racecourse, sports-ground, recreation-ground, or other place where people congregate, though such structure may not be enclosed or covered as mentioned in the *last preceding* paragraph : 5

(c) Any retaining-wall,—

and also includes the site and foundations of any structure as aforesaid :

“ Building Committee ” or “ Committee ” means the Building Committee constituted in accordance with this Act : 10

“ District ” means a county, borough, town district, or road district :

*New.*

“ Engineer-in-Chief ” means the person for the time being holding office as the Engineer-in-Chief in the Public Works Department, and, in the absence of the Engineer-in-Chief, includes the Assistant Engineer-in-Chief or the deputy of the Engineer-in-Chief : 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 : 20

“ Minister ” means the Minister of Public Works :

*New.*

“ Owner ” in relation to any premises includes every person who is the owner or the occupier thereof within the meaning of the Rating Act, 1925 : 25

“ Registered engineer ” means an engineer registered under the Engineers Registration Act, 1924.

(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. 30

(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. 35

(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. 40

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

*New.*

2A. (1) For the purposes of this Act the Minister may appoint an Advisory Committee, to be called the Building Committee, consisting of— 45

(a) The Engineer-in-Chief :

(b) A registered engineer to be appointed on the recommendation of the Council of the New Zealand Society of Civil Engineers (Incorporated) : 50

*New.*

- (c) An architect registered under the New Zealand Institute of Architects Act, 1913, to be appointed on the recommendation of the Council of the New Zealand Institute of Architects :
- 5 (d) A registered engineer in the service of a Borough Council, to be appointed on the recommendation of the Executive Committee of the Municipal Association of New Zealand :
- (e) A registered engineer in the service of a County Council, to be appointed on the recommendation of the Executive Committee of the New Zealand Counties Association :
- 10 (f) Not more than two other persons, possessed of scientific or technical qualifications.

(2) The members of the Building Committee other than the Engineer-in-Chief shall be appointed for a term of three years, save that any such member may be reappointed, or may at any time be removed from office by the Minister, or may resign his office by writing addressed to the Minister. One member shall be appointed by the Minister to be the Chairman of the Committee.

(3) The members of the Building Committee not being persons in the service of the Crown shall be paid such fees and allowances as may from time to time be prescribed in that behalf. All members of the Committee shall be entitled to a refund of travelling-expenses reasonably incurred by them in respect of attendance at meetings of the Committee, or in transacting the business thereof.

(4) Meetings of the Building Committee shall be held at such times and places as the Committee, with the approval of the Minister, may from time to time appoint, provided that such meetings shall be held at intervals not exceeding three months in any case. In the absence of the Engineer-in-Chief from any meeting of the Committee he may appoint any officer of his Department to attend such meeting in his stead. At all meetings of the Committee three members shall constitute a quorum.

2B. In addition to any functions expressly or impliedly conferred on it by the following provisions of this Act, it shall be the duty of the Committee to consider and report to the Minister upon all matters that may be referred to it relative to the construction or design of buildings, or to the subject-matter and application of any regulations or by-laws made for the purposes of this Act.

Functions of Building Committee.

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40 **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.

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

*New.*

45 (1A) It shall not be lawful for any person after the passing of this Act to commence the erection of any building or the reconstruction or substantial alteration of any building in any district without a permit from the local authority of that district. Where a permit is issued by any local authority for the carrying-out of any such work as aforesaid, in accordance with any plans and specifications, failure to comply with such plans and specifications to the satisfaction of the local authority shall be a breach of this Act notwithstanding that such failure may not constitute a breach of any regulations or by-laws thereunder.

(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.

*New.*

If it appears to the Minister, on the advice of the Building Committee, that any permit has been issued on terms that do not ensure compliance with any regulations or by-laws as aforesaid, he may require the local authority to amend the permit, and the permit may thereupon be amended accordingly. 5

(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. 10

*Struck out.*

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. 15

(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. 20 25

(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. 30

(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. 35

*New.*

Governor-General may make regulations as to construction and design of buildings.

4A. (1) The Governor-General may from time to time, by Order in Council, make regulations in accordance with this section for all or any of the matters specified in the Schedule hereto. 35

(2) Any such regulations may according to the tenor thereof apply generally throughout New Zealand or within any specified part or parts thereof, to the exclusion of other parts, and may from time to time be applied by the Minister by notice in the *Gazette* to any part of New Zealand, and any such notice may be at any time in like manner revoked. 40

(3) The operation of any regulations published as aforesaid may, if so provided therein, be wholly suspended until they are applied by the Minister by notice pursuant to the *last preceding* subsection. 45

(4) In so far as the by-laws of any local authority in force in any locality are inconsistent with or repugnant to any regulations made under this section and in force in the same locality the by-laws shall be read subject to the regulations. 50

*New.*

(5) All regulations made under this section and for the time being in force in the district of any local authority shall be enforceable in all respects as if they were by-laws made by that local authority, and all fines recovered for the breach thereof in proceedings conducted by or on behalf of a local authority shall be applied as if they were recovered in respect of the breach of by-laws.

(6) No regulations shall be made, applied, suspended, revoked, or varied in accordance with this section except on the recommendation of the Building Committee communicated to the Minister.

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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.

Minister may require local authority to make by-laws.

(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.

*New.*

5A. (1) Every local authority shall have power, subject to the provisions of the *last preceding* section, to make by-laws for the several matters and purposes specified in the Schedule hereto. 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.

Local authority may make by-laws.

(2) A copy of every such by-law under the seal of the local authority shall, within fourteen days after the making thereof, be sent by the local authority to the Minister.

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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.

Struck out.

(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.

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

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.

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New.

Plans and other particulars of buildings to be open for inspection.

7A. (1) The Engineer-in-Chief or any person acting by direction or with the authority of the Engineer-in-Chief shall, at any time during the office hours of a local authority, but not so as unreasonably to interfere with the carrying-out of his duties by any officer of that local authority, have free right to inspect all plans, sketches, calculations, specifications, and other particulars in relation to any building or proposed building supplied to the local authority by or on behalf of the applicant for a permit for such building.

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(2) Any person entitled in accordance with the last preceding subsection to inspect any plans or other documents in relation to any building shall, on giving a receipt therefor, be entitled to remove the same from the office of the local authority if he is of opinion that detailed examination thereof is necessary for the purposes of this Act and that such detailed examination cannot conveniently be made in the offices of the local authority.

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(3) The production by a local authority of a receipt given to it under the last preceding subsection in respect of any documents shall indemnify the local authority in any claim for damages or otherwise that may be made against the local authority in respect of the loss of or damage to any such documents.

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

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~~ *Engineer-in-Chief or any person appointed by him in writing* 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.

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(2) In addition to the powers conferred by the last preceding subsection, the ~~Minister~~ *Engineer-in-Chief* 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.

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(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 *Engineer-in-Chief* or any other person as aforesaid in the exercise or performance of his powers and duties under this Act.

Local authorities obtain services of technical adviser.

9. (1) 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, *whenever necessary*, obtain the services of a competent technical adviser, 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.~~

*New.*

(2) If any local authority fails to obtain the services of a competent technical adviser, as required by the *last preceding* subsection, the Minister, on the recommendation of the Building Committee, may appoint a suitable person to act as technical adviser to that local authority, either generally or in respect of any particular matter, and it shall not be competent for the local authority to terminate the appointment of any person so appointed except with the consent of the Minister.

(3) Any person appointed under the *last preceding* subsection shall be entitled to receive from the local authority such salary or other remuneration as may be fixed in that behalf by the Governor-General in Council.

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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.

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

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.

Clerk of works.

(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~~ *the deposit* of 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~~ *may require security to be given* to the satisfaction of the local authority for the due payment of such amount.

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. 5 10

*New.*

(1A) Any local authority as aforesaid may by requisition in writing require the owner of any building or premises to pull down, remove, or alter any part of a building or any other work or thing, erected or done before the passing of this Act, if in its opinion such building, work, or thing is a source of public danger, or may become a source of such danger in the event of earthquake. 15

(2) If the owner fails to comply with such requisition, ~~any Magistrate's Court~~ *the Supreme Court or a Judge thereof* may, on the application of the local authority, make an order that the building, work, or thing, or that any specified 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. 20 25

*Struck out.*

(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. 30

(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. 35

(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. 40 45

(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. 50



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~~ *one-eighth* 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.

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

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10 (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  
15 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.

*New.*

20 (2A) The proceeds of such special fee shall be applied towards the cost of the administration of this Act, and the residue, if any, shall be applied, in accordance with the appropriation of Parliament, in payment of the expenses incurred by or with the approval of the  
25 Department of Scientific and Industrial Research for investigations undertaken with a view to the improvement of building-designs and in connection with matters relevant thereto.

(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  
30 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.

(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  
35 work, *to be determined by the local authority*, 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.

*Struck out.*

40 (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.

45 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  
50 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.

General penalty for offences.

## 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: 5
- (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~~ and prescribing also the circumstances in which a local authority must obtain the services of a technical adviser: 10

**New.**

- (c) Prescribing the rates of fees and allowances to be paid to members of the Building Committee. 15

(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. 20

## Repeal.

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

## SCHEDULE.

Schedule.

SUBJECT-MATTER OF *Regulations or 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~~

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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.

*New.*

person competent to supervise the same, and prescribing in relation to different classes of buildings the qualifications to be possessed by persons employed as aforesaid in respect of the erection, reconstruction, or alteration thereof.

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.