

COUNTIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Counties Act 1920.

Electors and Electoral Rolls

Clauses 2 to 9, make various amendments to the principal Act in order to bring the provisions of that Act relating to electors and electoral rolls more into conformity with the corresponding provisions which apply in the case of Borough Councils. Since the introduction of the residential qualification in counties in 1944 the procedure in the case of Boroughs has become more appropriate than that provided in the Counties Act 1920, which was passed when only ratepayers and holders of miners' rights were entitled to vote.

Clause 2 sets out the residential qualification of electors. It re-enacts the existing provisions which appear in section 3 of the Local Elections and Polls Amendment Act 1944. That section prescribed the residential qualification of electors of counties and road districts, but in the case of counties is being transferred to the counties legislation so that when the legislation relating to local elections and polls is consolidated it may be omitted from the consolidation.

Clause 3 abolishes the existing electors' qualifications of the holders of miners' rights.

Clause 4 prescribes the method in which the electoral rolls are to be prepared. The new provision corresponds substantially with that applying in the case of Borough Councils, and enables the form of the roll to be prescribed by regulations instead of being set out in the Act itself. The existing section 41, which this clause replaces, makes provision only for the insertion of names of persons having a ratepayer's qualification, but this provision has been affected by the later provisions conferring voting rights on persons possessing residential qualifications. The new section 41 makes provision for both classes of qualifications.

Clause 5: This clause provides that the period during which the rolls are to be deposited for public inspection is to be prescribed by regulations. This is the position in the case of rolls for borough elections.

Clause 6 enables regulations to be made as to the time within which and the manner and form in which objections to the roll are to be made. The existing provision fixes a specified date before which the objections are to be lodged, but makes no provision with respect to the manner and form of lodging objections.

Clause 7 confers upon the County Clerk the function of amending the roll at any time when the Council is not sitting.

Clause 8 enables regulations to be made as to the manner and time for appealing to a Magistrate against any decision or act of the Council or the County Clerk concerning the county electors roll. This will enable regulations to be made as in the case of Borough Councils, instead of specifying the procedure in the Act itself.

Clause 9 enables regulations to be made as to the manner in which and the time within which the county electors roll is to be corrected, completed, and authenticated. The existing provision only fixes the time within which this is to be done, but it does not specify how it is to be done.

County Townships

Clause 10 enables the ratepayers in a county township to require that a poll of the ratepayers in the county township be taken to determine whether or not a system of rating shall be adopted within the county township which differs from the system of rating in force in the rest of the county. If the proposal is carried, any separate improvement and development rates which are levied only within the county township are to be made and levied on the system of rating adopted at the poll. So far as rates payable within the whole county, or within a part of the county which includes the county township, are concerned, the Council is to levy rates within the county township on the system of rating adopted at the poll so that the total amount produced will equal the total which would have been produced had the rates been levied according to the system of rating in force in the county. In order to produce the same amount it may be necessary when levying rates on the different system of rating to exceed the maximum rate that could otherwise have been levied, and the new section gives authority for this maximum to be exceeded.

Clause 11 authorizes County Councils to transfer moneys to a separate account in respect of development and maintenance works in county townships. This provision will enable a specified portion of the rates levied in respect of rateable property in a county township to be paid to the separate account and expended solely within the county township.

Clause 12: Section 6 of the Counties Amendment Act 1949 contains power to exempt farm land in county townships from separate improvement and development rates if the land is not fit for subdivision *and* is unlikely to be required for building purposes within five years. The purpose of the clause is to make the latter condition an alternative ground for exemption, as is the case under the Urban Farm Land Rating Act 1932, which contains similar provisions in the case of boroughs.

Clause 13: The Counties Amendment Act 1949 provides that the various powers of a County Council in relation to county townships are to be exercised only on petition signed by a majority of the ratepayers within the county township. The purpose of this clause is to enable the Council to take a poll of ratepayers within the county township on any proposal which would otherwise require to be the subject of a petition, and, if the poll is carried, to give effect to the proposal.

Miscellaneous Amendments

Clause 14 increases the maximum penalty for a breach of by-laws from £20 to £50.

Clause 15: The purpose of this clause is to enable a County Council to apply to the Supreme Court for an injunction against the continuing breach of a by-law. A similar provision appears in section 370 (2) and (3) of the Municipal Corporations Act 1933 in the case of by-laws of a Borough Council.

Clause 16 enables by-laws to be made authorizing the removal of works which are executed contrary to by-laws, and corresponds with a similar provision in section 371 of the Municipal Corporations Act 1933.

Clause 17: Section 131 of the principal Act enables a County Council to apportion a part of its gross income towards the cost of constructing and maintaining bridges exceeding 20 feet span. This clause removes the provision limiting this apportionment to bridges exceeding 20 feet span.

Clause 18: Section 150 of the principal Act authorizes a County Council to construct public works that may be necessary or beneficial to the county whether or not the works are wholly within the county. It has been held that this provision does not apply to works wholly outside the county and that they must be wholly within the county or partly within the county and partly outside the county. The purpose of this amendment is to enable works to be constructed which are wholly outside the county.

Clause 19: Section 167 of the principal Act authorizes County Councils to make and levy a drainage rate not exceeding one penny in the pound on the capital value of rateable property, and section 171 (2) enables a separate rate not exceeding three farthings in the pound on the capital value to be made and levied for the purpose of providing the cost of the maintenance and supervision of drainage works after construction. The purpose of this clause is to increase the maximum rate under section 167 (2) to twopence in the pound and the maximum rate under section 171 (2) to one penny halfpenny in the pound.

Clause 20: Section 192 of the principal Act confers powers on County Councils to provide dwellings for workers either by way of purchase or letting. The purpose of this clause is to extend the definition of the term "worker" to include any person who is resident or desires to become resident in or near to the county. This amendment will confer on counties general powers as to housing such as are now possessed by Borough Councils.

Clause 21 authorizes County Councils to provide shops and offices in buildings erected by them. A similar provision appears in the case of Borough Councils in section 339 of the Municipal Corporations Act 1933.

Hon. Mr. Bodkin

COUNTIES AMENDMENT

ANALYSIS

Title.	
1. Short Title.	12. Amending provisions as to exemption of farm land from separate improvement and development rates.
<i>Electors and Electoral Rolls</i>	
2. Residential qualification of electors.	13. Council may exercise powers after poll of ratepayers instead of on petition.
3. Abolishing qualification in respect of miners' rights.	
4. Preparation of rolls. Repeal.	
5. Amending provisions as to deposit of rolls for public inspection.	<i>Miscellaneous Amendments</i>
6. Amending provisions as to objections to roll.	14. Increasing penalty for breach of by-laws. Repeal.
7. Clerk may exercise functions of Council as to amending roll.	15. Council may apply to Supreme Court for injunction against continuing breach of by-law.
8. Appeals to Magistrate in respect of roll. Repeals.	16. Removal of works executed contrary to by-laws.
9. When roll in force.	17. Amending provisions as to expenditure on bridges. Repeal.
<i>County Townships</i>	18. Council may construct works within or without the county.
10. Ratepayers of county township may determine basis on which rates shall be collected.	19. Increasing maximum separate drainage rate.
11. Council may transfer moneys to separate account in respect of development works in county townships.	20. Amending provisions as to workers' dwellings.
	21. Council may provide shops and offices in buildings erected by it.

A BILL INTITULED

Title. AN ACT to amend the Counties Act 1920.

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

Short Title. 1. This Act may be cited as the Counties Amendment Act 1952, and shall be read together with and deemed part of the Counties Act 1920 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. V, p. 180

Electors and Electoral Rolls

Residential qualification of electors. 2. (1) The principal Act is hereby amended by inserting, after section thirty-nine, the following section:—

“ 39A. (1) Every person of or over the age of twenty-one years shall be qualified to be a county elector and to have his name entered on the roll of electors of any riding who possesses a residential qualification, meaning thereby—

“(a) That he is or has the status of a British subject or is an Irish citizen, as defined in the British Nationality and New Zealand Citizenship Act 1948; and

1948, No. 15

“(b) That he has resided for one year in New Zealand; and

“(c) That he has resided in the riding for not less than three months immediately preceding his enrolment or claim for enrolment as a county elector:

“ Provided that nothing in this subsection shall be construed to entitle any person to have his name appearing more than once on any roll of electors:

“ Provided also that, where any person entitled under this subsection to have his name entered on any roll of electors is also entitled to have his name so entered by virtue of his being a ratepayer, his name shall be entered on the roll in respect of that rating qualification only.

“(2) For the purposes of this section a person shall be deemed to reside in the place in which he has his permanent home.

“(3) No person shall by virtue of this section have more than one vote at any election.

“(4) Nothing in this section shall be construed to entitle any person to vote at any poll of ratepayers other than an election.

“(5) Nothing in this section shall be construed to impose any liability on any person for the payment of rates.”

(2) The Local Elections and Polls Amendment Act 1944, No. 6 1944 is hereby amended as follows:—

10 (a) By omitting from subsection one of section three the words “ of any riding of a county, or ”:

(b) By omitting from paragraph (c) of the same subsection the word “ riding ” wherever it appears:

15 (c) By omitting from subsection two of the same section the words “ county or ”, and also the words “ of any riding of the county, or ”:

(d) By omitting from the heading to the form in the Schedule the words “ Riding of County (or ”:

20 (e) By omitting from paragraph one and also from paragraph four of the same form the words “ the Riding of the County (or ” wherever they appear:

25 (f) By omitting from the same form the words “ Elector of the County (or Road District)”, and substituting the words “ Elector of the Road District: ”

30 (g) By omitting from the same form the words “ County Clerk (or a person authorized by the County Clerk to take this declaration) ”.

35 (3) Section thirty-eight of the principal Act is hereby amended by omitting the words “ county elector ”, and substituting the words “ person enrolled as a county elector pursuant to subsection two of section thirty-seven of this Act ”.

3. (1) The principal Act is hereby amended by repealing section forty.

Abolishing qualification in respect of miners' rights.

(2) The principal Act is hereby consequentially amended as follows:—

40 (a) By omitting from subsection two of section thirty-seven the words “ or on the hereinafter-mentioned list of miners' rights for such riding ”:

(b) By repealing section forty-two:

(c) By omitting from section forty-three the words
 “ or on any such roll and on any list of
 miners’ rights ”, and also the words “ if
 his qualifications are in respect of rateable
 property ”: 5

(d) By omitting from the same section the words
 “ such qualifications ”, and substituting the
 words “ his qualifications ”.

1946, No. 27

(3) The Local Elections and Polls Amendment Act
 1946 is hereby consequentially amended by repealing 10
 so much of the First Schedule as relates to section
 forty-two of the principal Act.

Preparation
 of rolls.

4. (1) The principal Act is hereby amended by
 repealing section forty-one, and substituting the
 following section:— 15

“ 41. (1) The Clerk shall, on or before the thirty-
 first day of July in any year in which a general election
 of Councillors is to be held, cause a roll to be prepared
 for each riding in the county in the prescribed form
 and containing the names, arranged in alphabetical 20
 order of their surnames, of—

See Reprint
 of Statutes,
 Vol. VII, p. 977

“ (a) Every occupier within the meaning of the
 Rating Act 1925 of rateable property in
 the riding:

“ (b) Every person who makes a claim in the 25
 prescribed form that he is entitled by reason
 of a residential qualification to have his
 name entered on the roll, unless to the
 Clerk’s knowledge any statement made by
 the applicant in his claim is untrue: 30

“ (c) Every other person who to the Clerk’s know-
 ledge is entitled by virtue of section
 thirty-nine A of this Act to have his name
 entered on the roll,—

and he shall enter thereon the number of votes which 35
 each elector is entitled to give at an election of a
 member of the Council, and he may also enter thereon
 the number of votes which each elector is entitled to
 give at any other election for which the roll is used:

“ Provided that the Clerk, if the Council so directs, 40
 shall not, except pursuant to a claim in the prescribed
 form, place on the roll the name of any person whose
 name appeared by virtue only of a residential qualifi-
 cation on the roll of the riding in force for the last
 general election of Councillors, if that person, not being 45

a candidate and not having voted at that election, did not vote at any one of any subsequent elections of a Councillor or Councillors at which he was entitled to vote.

5 “(2) Every person who wilfully makes a false statement in any claim for enrolment under this section commits an offence, and is liable on summary conviction to a fine not exceeding five pounds.

10 “(3) It shall be the duty of every County Council to keep at its office and at such other places as it thinks fit a supply of forms of claims for enrolment on any roll of electors prepared by the Council and to make them available for the free use of claimants.

15 (2) The principal Act is hereby amended by repealing the First Schedule. Repeal.

(3) The Local Elections and Polls Amendment Act 1946 is hereby consequentially amended as follows:— 1946, No. 27

(a) By omitting from section eight the words “County Council or”:

20 (b) By omitting from the same section the words “Council or Board, as the case may be”, and substituting the word “Board”:

(c) By repealing so much of the First Schedule as relates to section forty-one of the principal Act.

25 5. (1) Section forty-four of the principal Act (as amended by section two of the Local Elections and Polls Amendment Act 1946) is hereby further amended by omitting the words “from the twenty-seventh day of July until the fifteenth day of August”, and substituting the words “for a prescribed period”. Amending provisions as to deposit of rolls for public inspection.

30 (2) The Local Elections and Polls Amendment Act 1946 is hereby consequentially amended by repealing so much of the First Schedule as relates to section forty-four of the principal Act.

35 6. (1) Section forty-five of the principal Act (as amended by section two of the Local Elections and Polls Amendment Act 1946) is hereby further amended by omitting the words “on or before the twenty-second day of August in each year in which a general election of Councillors is to be held”, and substituting the words “in the prescribed time, manner, and form”. Amending provisions as to objections to roll.

40 (2) The Local Elections and Polls Amendment Act 1946 is hereby consequentially amended by repealing so much of the First Schedule as relates to section 45 forty-five of the principal Act.

Clerk may exercise functions of Council as to amending roll.

7. Section forty-six of the principal Act is hereby amended by inserting after subsection two, the following subsection:—

“(2A) The functions conferred upon the Council by this section shall be exercised by the Clerk when the Council is not actually sitting.” 5

Appeals to Magistrate in respect of roll.

8. (1) The principal Act is hereby amended by repealing section forty-seven, and substituting the following section:—

“47. (1) Any person aggrieved by any decision or act of the Council or of the Clerk touching or concerning the county electors roll may, in the prescribed manner and within the prescribed time, appeal therefrom to a Magistrate, who shall hear and determine the appeal, and may order such alterations in and additions to the roll to be made as he thinks just. 10 15

“(2) All such alterations and additions shall be made by the Clerk and initialled by the Magistrate.”

Repeals.

(2) The following enactments are hereby consequentially repealed, namely:— 20

1946, No. 27

(a) So much of the Second Schedule to the Local Elections and Polls Amendment Act 1946 as relates to section forty-seven of the principal Act:

1950, No. 30

(b) So much of the Schedule to the Local Elections and Polls Amendment Act 1950 as relates to section forty-seven of the principal Act. 25

When roll in force.

9. (1) The principal Act is hereby amended by repealing section forty-eight, and substituting the following section:— 30

“48. (1) The county electors roll for each riding shall be corrected, completed, and authenticated in the prescribed manner and time, and shall come into force on the first day of October next ensuing, and shall remain in force until another county electors roll comes into force for the same riding. 35

“(2) All corrections and additions required to be made after the completion of the county electors roll for any riding shall be made on a supplementary county electors list, which shall be corrected, completed, and authenticated in the same manner as in the case of the county electors roll, and thereupon shall become a supplementary county electors roll, and shall form part of the county electors roll for the riding.” 40

(2) The Local Elections and Polls Amendment Act 1946, No. 27
1946 is hereby consequentially amended as follows:—

(a) By repealing section seven:

5 (b) By repealing so much of the First Schedule as
relates to section forty-eight of the principal
Act.

County Townships

10 10. The Counties Amendment Act 1949 is hereby
amended by inserting, after section four, the following
section:—

Ratepayers of
county township
may determine
basis on which
rates shall be
collected.
1949, No. 27

15 “ 4A. (1) The ratepayers within any county township
may at any time require the Council to take a poll of the
ratepayers within the county township on a proposal to
adopt within the county township a system of rating
15 which differs from that in force in the county. In every
such case the provisions of the Rating Act 1925 as to
adopting proposals and rescinding proposals shall, as
far as they are applicable and with the necessary modifi-
cations, apply as if the county township were a district
20 within the meaning of section thirty-nine of that Act.

See Reprint
of Statutes,
Vol. VII, p. 977

25 “(2) Where at any such poll a system of rating is
adopted which differs from that in force in the county,
then, notwithstanding anything to the contrary in the
principal Act or in the Rating Act 1925, the following
provisions shall apply, namely:—

“(a) Where any rate is made and levied only on
rateable property within the county town-
ship, it shall be made and levied on the
system of rating adopted at that poll:

30 “(b) Where any rate is made and levied on all rate-
able property within the whole county or
within a part of the county which includes
the county township, the Council shall,
35 instead of levying that rate on rateable
property within the county township on the
system of rating in force in the county,
make and levy on the rateable property
within the county township on the system of
rating adopted at the poll a rate calculated
40 to produce a total amount equal to the
amount that would have been produced from
all the rateable property in the county
township if it had been levied on the system
of rating in force in the county.

“(3) In order to produce a total amount of rates equal to the amount that would have been produced from all the rateable property in the county township if it had been levied on the system of rating in force in the county, the Council may under paragraph (b) of the last preceding subsection make and levy within the county township a rate of such amount as may be necessary for the purpose, notwithstanding that it may exceed the maximum rate that may be levied under the provisions of the principal Act.”

Council may transfer moneys to separate account in respect of development works in county townships. 1949, No. 27

11. Section five of the Counties Amendment Act 1949 is hereby amended by repealing subsection three, and substituting the following subsection:—

“(3) The Council may from time to time transfer moneys from its General Account or from the appropriate Riding Account to any separate account kept in respect of a county township, to meet expenses incurred in executing or maintaining any work in the county township under the authority of section three of this Act.”

Amending provisions as to exemption of farm land from separate improvement and development rates.

12. Section six of the Counties Amendment Act 1949 is hereby amended by omitting from subsection one the words “and is not likely”, and substituting the words “or is not likely”.

Council may exercise powers after poll of ratepayers instead of on petition.

13. The Counties Amendment Act 1949 is hereby amended by inserting in Part I, after section seven, the following section:—

“7A. Notwithstanding anything in this Part of this Act, the Council may from time to time take a poll of the ratepayers within any county township, or, as the case may be, within a proposed county township, on any proposal relating to a matter which may be the subject of a petition under this Part of this Act; and, where a majority of the valid votes recorded at the poll is in favour of the proposal, the Council may exercise the powers conferred by this Part of this Act in respect of the matter on which the poll was taken as if a petition thereon had been signed by a majority of the ratepayers within the county township or proposed county township, as the case may be.”

5
10
15
20
25
30
35
40

Miscellaneous Amendments

14. (1) Section one hundred and eight of the principal Act (as amended by section fifteen of the Counties Amendment Act 1949) is hereby further amended by omitting the words "twenty pounds", and substituting the words "fifty pounds".
- (2) The Counties Amendment Act 1949 is hereby amended by repealing section fifteen.
15. Section one hundred and eight of the principal Act is hereby further amended by inserting, after subsection two, the following subsections:—
- "(2A) The Council may, after the conviction of any person for the continuing breach of any by-law, apply to the Supreme Court for an injunction to restrain the further continuance of the breach by the person so convicted.
- "(2B) The continued existence of any work or thing in a state contrary to any by-law shall be deemed a continuing offence within the meaning of this section."
16. The principal Act is hereby amended by inserting, after section one hundred and eight, the following section:—
- "108A. (1) A by-law may authorize the Council, or any officer thereof, to pull down, remove, or alter any work, material, or thing erected or being in contravention of any by-law, and to recover from the person committing the breach all expenses incurred by the Council in connection with the pulling down, removal, or alteration.
- (2) The exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of the breach."
17. (1) Section one hundred and thirty-one of the principal Act (as amended by section twenty-one of the Appropriation Act 1923) is hereby further amended by omitting from paragraph (d) of subsection one the words "exceeding twenty feet span".
- (2) The Counties Amendment Act 1925 is hereby consequentially amended by repealing section ten.

Increasing penalty for breach of by-laws.

Repeal.

Council may apply to Supreme Court for injunction against continuing breach of law.

Removal of works executed contrary to by-laws.

Amending provisions as to expenditure on bridges. 1923, No. 45

Repeal. See Reprint of Statutes, Vol. V. p. 272

Council may construct works within or without the county.

Increasing maximum separate drainage rate.

Amending provisions as to workers' dwellings.

Council may provide shops and offices in buildings erected by it.

18. Section one hundred and fifty of the principal Act is hereby amended by omitting the words "whether or not such works are wholly within the county", and substituting the words "whether those works are within or without the county".

5

19. (1) Section one hundred and sixty-seven of the principal Act is hereby amended by omitting from subsection two the words "one penny", and substituting the word "twopence".

(2) Section one hundred and seventy-one of the principal Act is hereby amended by omitting from subsection two the words "three farthings", and substituting the words "one penny halfpenny".

10

20. Section one hundred and ninety-two of the principal Act is hereby amended as follows:—

15

(a) By omitting the definition of the term "worker", and substituting the following definition:—

" "Worker" means every person who is resident or desires to become resident in or near to the county: "

20

(b) By inserting in the definition of the term "worker's dwelling" in subsection one, after the words "but so that such area", the words "if situated within a borough or town district not forming part of a county, shall not be more than three acres, or, if situated within a county,".

25

(c) By omitting from subsection two the words "employed or resident in the county".

21. Where pursuant to any authority conferred on it by this Act or any other Act the Council erects any building, it may make provision therein for shops or offices, and may let any such shop or office at such rental, for such term, upon such conditions, and to such person as it thinks fit:

35

Provided that it shall not be lawful for the Council to make provision as aforesaid for shops or offices to such an extent as to render the building less suitable for the purpose for which it was authorized to be erected, or otherwise to make its principal purpose the provision of shops or offices.

40