

COUNTIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Counties Act 1956.

Clause 1 relates to the Short Title.

Clause 2 amends section 43 of the principal Act, which requires fresh elections of Councillors to be held in certain cases, such as, where the county or any part of it is redivided into new ridings, or where a riding is subdivided into two or more ridings, and in the other cases mentioned in the section.

Some uncertainty exists as to whether on the happening of the event requiring a fresh election of Councillors the existing Councillors vacate office immediately or whether they stay in office until the Councillors elected at the fresh election come into office.

The effect of the amendments made by this clause is to make it clear that the existing Councillors will continue in office until the newly elected Councillors come into office, and to provide that where the event requiring a new election occurs between 1 January and 31 August in a year in which a triennial general election of the Council is to be held, the fresh election is to be held as part of the general election.

Clause 3: Section 45 of the principal Act makes provision for a Magistrate's Court to adjudge that a Councillor be ousted from his office on the ground that he is or has become incapable under the principal Act of holding his office.

This clause extends that provision, and enables a Magistrate's Court to make an order under section 62 on the ground that the Councillor was incapable under some other Act (e.g., the Local Authorities (Member's Contracts) Act 1954) of holding his office, and also on the ground that he was incapable of holding his office on the date on which he was declared elected.

Clause 4 increases the maximum amount of the annual allowance that may be paid to the Chairman of a county. The maximum allowance is to be as follows:

- (a) Where the county has a population of not more than 10,000 – £500.
- (b) Where the county has a population of more than 10,000 but not more than 20,000 – £750.
- (c) Where the county has a population of more than 20,000 – £1,000.

Clause 5 re-enacts in an amended form section 101 of the principal Act relating to the signing of cheques. The new provisions in the section are—

- (a) Cheques may be signed not only by the Treasurer or by an officer of the Council authorised by the Council (as at present) but also by the Deputy Treasurer.
- (b) Cheques may be countersigned not only by a Councillor authorised for the purpose (as at present) but also, with the authority of the Audit Office, by an officer of the Council authorised by the Council.
- (c) The section also makes it clear that the prior authority of the Council is not required for money to be paid by cheque, but payments made in this manner must be submitted to the Council for authorisation at its next ordinary meeting.
- (d) The section also authorises the use by County Councils, with the prior approval of the Audit Office and subject to conditions approved by that Office, of suitable cheque-writing machines.

Clause 6 authorises the payment of travelling allowances and travelling expenses to members of committees who are not members of the Council in the same way as if they were members of the Council.

Clause 7 authorises Councils to expend money on naturalisation and citizenship ceremonies in the county.

Clause 8 provides that a copy of a special order altering the name of a road or access way or service lane must be sent to the Chief Surveyor of the land district in which the land is situated.

Clause 9 increases from 2d. in the pound on the capital value to 3d. in the pound the maximum land drainage rate that may be levied by County Councils under section 226 of the principal Act.

Clause 10 amends section 232 of the principal Act providing for the levying of drainage rates on a graduated scale according to a classification of the land to be rated.

Subclause (1) provides that the classification is to be so made as to provide a basis of rating that is equitable as between ratepayers and as between groups of ratepayers.

Subclause (2) requires a map to be attached to the classification list showing by distinctive colouring the various classes of land.

Subclause (3) provides that the fees for proceedings in the Magistrate's Court are to be paid in respect of appeals against classification, and that the Court may award costs either for or against the appellant.

Clause 11 inserts a new section 232A in the principal Act providing that, in addition to other authorised systems of rating, land drainage rates may be made and levied under Part XVI of the principal Act on an acreage system providing for a rate on a graduated scale on the basis of an amount for each acre of each class of land liable to be rated. An appeal to the Magistrate's Court is given against the introduction of this system of rating.

Clause 12 inserts a new section 232B in the principal Act authorising any classification of land for the purposes of any land drainage rate that may be levied under Part XVI of the principal Act to be made by written agreement between the Council and all the owners and occupiers of the land which is classified.

Clause 13: By section 284 of the principal Act, the Council may agree with the Crown or any Urban Fire Authority or with other persons or local authorities for the supply of appliances and labour for the purpose of extinguishing fires in the county, and may make and levy a separate rate for the purpose of paying the money payable by the Council under such an agreement.

This clause provides that, instead of making and levying a rate, the Council may make an annual charge in the area for which the fire prevention service is to be provided, according to a classification made by the Council of rateable property in the area. This power may be exercised on petition of a majority of the ratepayers in the area, or may be made without a petition, but in the latter case a poll of ratepayers is to be held on the proposal if 5 per cent of the ratepayers demand a poll or if the Council itself decides to hold a poll.

Clause 14: The purpose of this clause is to confer on the Council power to purchase, by agreement with the owner, land in the county and develop it for commercial or industrial purposes. The Council must notify the owner of the purpose or purposes for which the land is to be purchased.

The Council will be empowered to subdivide any land purchased for commercial or industrial purposes, and may construct roads, service lanes, access ways, and other public works, and provide services, and develop the land as allotments for commercial or industrial purposes.

The Council will be empowered to sell or lease commercial or industrial allotments to any person desiring to erect thereon commercial or industrial buildings or to occupy for commercial or industrial purposes buildings already on the allotments. The proceeds of the sale or letting are to be paid into a Commercial and Industrial Development Account and applied solely in payment of administrative charges in respect of the purchase and development of land purchased for commercial or industrial purposes, the repayment of loans raised for such purposes and the charges on those loans, the cost of purchase and development, and any surplus may be applied for the purposes of any public work in the county.

Clause 15 authorises a Council to contract with owners of land in the county to undertake, at the expense of the owner, the work of subdividing and developing the land for housing purposes.

Clause 16: Section 401 (27A) of the principal Act empowers the Council to make bylaws licensing and regulating the conduct of keepers of mobile or travelling shops, and imposing licence fees not exceeding £25 a year. The paragraph does not define the term "mobile or travelling shop".

This clause defines that term for the purposes of paragraph (27A), and also for the purposes of paragraphs (28) and (29) of section 401, where that term occurs, and also defines the term "keeper", in relation to any one or more mobile or travelling shops. The definition of "keeper" is intended to ensure that only one licence fee is payable to any one Council irrespective of the number of vehicles used by the keeper in carrying on his business in the county.

Clause 17: The effect of this clause is that any penalty payment made under a bond for the non-fulfilment of a contract is not to exceed the actual damages suffered by the Council by reason of the default. The full amount of the penalty will not be payable if the loss to the Council is less than that full amount.

Clause 18: Section 24 (3) of the Counties Amendment Act 1961 includes a provision that section 128 of the Public Works Act 1928 is not to apply with respect to the subdivision of any land in accordance with a scheme plan approved by the Council under Part II of the Counties Amendment Act 1961. Section 128 requires the frontage to be set back where land being subdivided has a frontage to a road of a width less than 66 ft.

Some uncertainty has arisen as to whether section 128 is excluded in relation to all roads to which allotments in the subdivision have a frontage (whether new roads or existing roads), or only in relation to new roads. This clause re-enacts this provision in order to make it clear that section 128 is excluded in relation to roads existing at the time of the subdivision (including roads provided for the purposes of an earlier subdivision), and enables the Council to require the frontage to an existing road to be set back in order to bring the road up to a width that would be required if it were a new road being provided by the subdivider. The powers of the Council as to the width of new or proposed roads to be provided to afford access to allotments of a subdivision already exist under section 24 of the Counties Amendment Act 1961, and the new provisions will apply only with respect to roads existing at the time of the subdivision.

The clause also contains a provision (as in section 128 of the Public Works Act 1928) that where the subdivider is required to set back the frontage, he is entitled to compensation from the Council. Any betterment accruing to the property is to be set off against the compensation payable.

The clause also provides that the Council, instead of or in addition to requiring the road frontage of an existing road to be set back, may impose a building-line restriction on the land fronting the road.

Clause 19: Section 26 (1) of the Counties Amendment Act 1961 provides that except as provided in an operative district planning scheme affecting the locality, no allotment on any scheme plan of subdivision shall have a frontage to a road or an area less than those prescribed in Part II of the First Schedule to that Act or by bylaws.

The effect of this clause is that the minimum frontages and areas prescribed in Part II of the First Schedule apply only where no different frontages or areas are prescribed in an operative or *proposed* district scheme affecting the area. This amendment is required in view of the provisions of section 33 (4) of the Town and Country Planning Act 1953 that a plan of subdivision shall not be approved unless the Council certifies that it complies with the requirements of every operative or *proposed* district scheme relating to the area in which the land is situated.

Clause 20: Section 27 (3) of the Counties Amendment Act 1961 provides that where no water supply system or stormwater drainage or sanitary drainage or sewage disposal system is available for a subdivision the Council may require the subdivider to contribute for or towards the cost of installing a water supply connection or, as the case may be, a stormwater or sanitary drainage system or a sewage treatment plant and sewer connection to serve the subdivision.

Having regard to the context, it is clear that the reference to a water supply connection should be a reference to a water supply system. This clause makes the necessary amendment.

Clause 21: The effect of section 29 (1) of the Counties Amendment Act 1961 is that where land being subdivided abuts on the seashore or on a lake with an area in excess of 20 acres or, in certain cases, on a river or stream, a strip of land must be reserved along the seashore or, as the case may be, the margin of the lake or the banks of the river or stream.

The purpose of this clause is to make it clear that this requirement applies only in respect of so much of the land being subdivided as adjoins any allotment of less than 10 acres and abuts on the seashore or on the lake or river or stream. For example, if part only of a large area is being subdivided into allotments of less than 10 acres, the remaining part having an area in excess of 10 acres, the strip required to be reserved by section 29 (1) must be reserved only in respect of those allotments, and then only if they abut on the seashore, lake, river, or stream, and will not be required to be reserved in respect of the balance of the land.

Clause 22: Subclause (1) amends an incorrect reference in section 31 (6) of the Counties Amendment Act 1961.

Subclause (2) provides that where a building-line restriction has been imposed by the Council under Part II of the Counties Amendment Act 1961, and the Council decides that it is no longer required, the Council may uplift the restriction.

Clause 23 amends an incorrect reference in section 32 (2) of the Counties Amendment Act 1961.

Clause 24 provides that where an appeal by a subdivider against the refusal by the Council to approve a scheme plan of subdivision (as distinct from an appeal against conditions imposed by the Council) is allowed by the Town and Country Planning Appeal Board, the scheme plan will not thereby be deemed to have been approved by the Council, but the provisions of Part II of the Counties Amendment Act 1961 will thereupon apply as if the Council had not refused to approve the plan.

As a result, the scheme plan will be required to go back to the Council for further consideration, for example, as to whether the Council's approval should be subject to any of the conditions that the Council is empowered to impose under section 23 (2) of the Counties Amendment Act 1961.

Clause 25 re-enacts in an amended form section 35 (1) of the Counties Amendment Act 1961 relating to the deposit under the Land Transfer Act 1952 or in the Deeds Register Office of a survey plan of subdivision.

As at present, the plan may not be deposited until it has been approved by the Council, but the clause includes new provisions that the consents of persons having registered interests in the land shown on the plan will be required only if they have interests in any part of the land that on the deposit of the plan will vest in the Crown or in the Corporation of the County pursuant to the provisions of section 35. By that section, on the deposit of the plan all land shown on the plan as roads or access ways or service lanes or as reserves for such purposes will vest in the Crown, other reserves will vest in the Crown or in the Corporation according to the nature of the reserves, and land in lieu of reserves will vest in the Corporation.

The existing subsection refers only to the necessity for consents where land is shown on the plan as land to be vested in the Corporation as reserves or as land in lieu of reserves, and the position where land is shown on the plan as reserves that will vest in the Crown or as roads or access ways or service lanes is uncertain. In such cases, the practice has been to obtain partial discharges of the mortgages or other interests, and the purpose of this clause is to simplify the procedure and dispense with the need for partial discharges if consents are given by the persons concerned.

Clause 26 provides that where a subdividing owner makes any payment to the Council under section 27 (2) to (4) of the Counties Amendment Act 1961 (relating to water supply, drainage, and sewage disposal), or to section 27 (5) (a) of that Act (relating to the cost of new or additional road formation and construction and the provision of footpaths), or under section 30 (b) of that Act (relating to the cost of forming a service lane reserve as a service lane), and the work in respect of which the payment is made is not completed by the Council within three years after the date of the payment or the date of approval of the survey plan, whichever is the later, the Council must refund that amount to the owner at the expiration of that period.

The clause also provides that where a subdividing owner himself supplies and lays any pipes for water supply or sewage disposal when required to do so by the Council on the ground that a water supply or sewage disposal system is likely to be available within three years, and such a supply or system is not available within a period of three years after the date of approval of the survey plan, the Council is to refund to the owner the cost incurred by him in supplying and laying those pipes.

In each case, the Council may apply to a Magistrate's Court for an extension of time, and the Court, if it is satisfied that there were reasonable grounds for the failure of the Council to do the work or to provide such a supply or system, may grant an extension to such date as it considers reasonable.

Clause 27: The effect of section 43 (4) of the Counties Amendment Act 1961 is to keep in force the provisions of the Land Subdivision in Counties Act 1946 with respect to scheme plans approved by the Minister of Lands before the commencement of Part II of the Counties Amendment Act 1961. As a result, certain provisions of the Land Subdivision in Counties Act 1946 will continue to apply to the subdivision indefinitely and the functions of the Minister of Lands under that Act will continue to exist with respect to that subdivision, e.g., where easements have been created to comply with a condition of the Minister's approval, they may not be surrendered without his approval.

The effect of this clause will be that the Land Subdivision in Counties Act 1946 will continue to apply to such a scheme plan until the plan of subdivision is deposited, and thereafter the provisions of Part II of the Counties Amendment Act 1961 will apply.

Clause 28: By section 44 (1) of the Counties Amendment Act 1961, public reserves in a county or road district which had vested in the Crown under earlier legislation became vested in the Corporation of the county or road district. Section 18 (5) of the Reserves and Domains Act 1953 provides that where the reservation of any land vested in a local authority as a public reserve is revoked, the land becomes Crown land available for disposal under the Land Act if the local authority derived title from the Crown, otherwise it is to be disposed of in such manner as the Minister of Lands directs.

Doubts have arisen as to whether or not the title to reserves vested in the Corporation of a county or road district by section 44 (1) was derived from the Crown for the purposes of section 18 (5) of the Reserves and Domains Act 1953. This clause (which is retrospective to the date of the commencement of Part II of the Counties Amendment Act 1961) is intended to remove those doubts by declaring that the title was not derived from the Crown. As a result, on the revocation of the reservation that land must be disposed of and for such purpose as the Minister of Lands directs.

Clause 29: By clause 8 of the First Schedule to the Counties Amendment Act 1961, two rear site residential allotments in a subdivision may be served by adjoining access strips each not less than 10 ft in width over which reciprocal rights of way must be created, and three or more rear sites may be served by access strips any of which may be less than 10 ft in width, but the aggregate width of all the strips must not exceed 20 ft and reciprocal rights of way must be created over all the strips.

This subclause re-enacts these provisions in an amended form, the effect of the changes being that reciprocal rights of way need not be granted in the case of two rear sites unless one of the access strips has a width of less than 10 ft, and that the aggregate width of all the access strips (whether two or more) must be not less than 10 ft nor more than 20 ft.

Hon. Mr Seath

COUNTIES AMENDMENT

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A BILL INTITULED

An Act to amend the Counties Act 1956

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

1. Short Title—This Act may be cited as the Counties Amendment Act 1964, and shall be read together with and deemed part of the Counties Act 1956* (hereinafter referred to as the principal Act).

*1957 Reprint, Vol. 3, p. 1
Amendments: 1958, No. 60; 1959, No. 58; 1960, No. 54; 1961, No. 131;
1962, No. 38; 1963, No. 82

2. Fresh elections of Councillors—(1) Section 43 of the principal Act is hereby amended—

(a) By omitting the words “in like manner as if extraordinary vacancies had occurred in the offices of the Councillors by resignation in the respective cases mentioned”:

(b) By omitting from paragraph (a) the words “all the Councillors in office in the original ridings affected by the redivision shall go out of office, and”:

(c) By omitting from paragraph (b) the words “the Councillors in office for the riding shall go out of office, and”:

(d) By omitting from paragraph (c) the words “all the Councillors in office for that riding shall go out of office, and”:

(2) Section 43 of the principal Act is hereby further amended by adding, as subsections (2) and (3), the following subsections:

“(2) Except where the event mentioned in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section happens during the period commencing on the first day of January and ending with the thirty-first day of August in the year in which a triennial general election of the Council is to be held, the election of Councillors to be held pursuant to that paragraph shall be held in the same manner as if an extraordinary vacancy in the office of Councillor had occurred on the happening of that event, and the Councillors in office for the riding or ridings affected by that event, shall, unless they sooner vacate office for any other reason, continue to hold office until the Councillors elected at that election come into office.

“(3) Where any of the events mentioned in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section happens during the period commencing on the first day of January and ending with the thirty-first day of August in the year in which a triennial general election of the Council is to be held, any election of Councillors to be held pursuant to that paragraph shall be held on the date and as part of the triennial general election, and the Councillors in office for the riding or ridings affected by that event shall, unless they sooner vacate office for any other reason, continue to hold office until the Councillors elected at the triennial general election come into office.”

3. Ouster of office of Councillor—Section 45 of the principal Act is hereby amended—

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

10 **4. Annual allowance to Chairman**—The principal Act is hereby further amended by repealing section 69, and substituting the following section:

“69. (1) The Chairman may be paid such annual allowance out of the County Fund as the Council from time to

15 time fixes, not exceeding—

“(a) In the case of a county having a population of not more than ten thousand, five hundred pounds:

“(b) In the case of a county having a population of more than ten thousand but not more than twenty

20 thousand, seven hundred and fifty pounds:

“(c) In the case of a county having a population of more than twenty thousand, one thousand pounds;—

but no alteration in the amount of that allowance shall take effect during the term of office of any Chairman.

25 “(2) For the purposes of this section—

“(a) The certificate of the Government Statistician as to the population of any county at any date shall be conclusive evidence thereof:

30 “(b) A person re-elected as Chairman shall be deemed to be a new Chairman.”

5. How money to be withdrawn from bank—(1) The principal Act is hereby further amended by repealing section 101, and substituting the following section:

35 “101. (1) All money shall be paid by the Corporation in cash, or by cheque signed by the Treasurer or the Deputy Treasurer or any other officer of the Council whom the Council, by resolution, from time to time appoints for the purpose of signing cheques, and countersigned in each case by any Councillor whom the Council from time to time

40 authorises to sign cheques:

“Provided that it shall be lawful, with the prior consent of the Audit Office, for any money to be paid by the Corporation by cheque signed as aforesaid and countersigned by any officer of the Council whom the Council, by resolution, from time to time appoints for that purpose. 5

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

“(3) Notwithstanding anything in subsection (1) of this section, it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Corporation by cheque issued by means of a cheque-writing machine, and every such cheque issued by means of such a machine and bearing a facsimile of the signatures of the persons authorised pursuant to the provisions of this section to sign and countersign cheques shall be deemed to have been duly signed and countersigned in accordance with the provisions of this section.” 10 15 20

6. Travelling allowances to members of committees—Section 136 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Where any member of any committee of the Council who is not a member of the Council attends any meeting of that committee, or, with the authority of the committee, travels in the service of the committee, he shall be entitled to receive travelling allowances and expenses as if he were a member of the Council, and the provisions of the Fees and Travelling Allowances Act 1951 shall apply accordingly.” 25 30

7. Naturalisation ceremonies—The principal Act is hereby further amended by inserting, after section 143, the following section:

“143A. The Council may from time to time expend such sums as it thinks fit in holding public ceremonies in the county in connection with the granting of certificates of naturalisation or registration as British subjects and New Zealand citizens.” 35

8. Change of name of road—Section 192 of the principal Act is hereby amended by adding to subsection (3) the words “A copy of the special order shall also be sent to the Chief Surveyor of the land district within which the land is situated.”

9. Maximum drainage rate—Section 226 of the principal Act is hereby amended by omitting from subsection (2) the word “twopence”, and substituting the word “threepence”.

10. Levying of drainage rates on graduated scale—(1) Section 232 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) All lands in the rating area that are liable to be rated under this Part of this Act for the purpose for which the rate is to be levied shall be so classified as to provide a basis of rating that is equitable as between ratepayers and as between groups of ratepayers.”

(2) Section 232 of the principal Act is hereby further amended by inserting in subsection (6), after the words “land to which the list relates”, the words “and shall have attached thereto a map showing by distinctive colouring the outer boundaries of each class of land”.

(3) Section 232 of the principal Act is hereby further amended by inserting, after subsection (10), the following subsection:

“(10A) The fees payable in respect of proceedings in the Magistrate’s Court shall be payable on any such appeal, and such costs as the Court deems just may be awarded either in favour of or against the appellant.”

11. Land drainage rating on acreage system—The principal Act is hereby further amended by inserting, after section 232, the following section:

“232A. (1) In addition to any other powers conferred on it by this Act for making and levying rates, and notwithstanding anything in section 4 of the Rating Act 1925, the Council may make and levy any rate for land drainage purposes on a graduated scale on the basis of an amount for each acre of each class of land liable to be rated according to the classification made under section 232 of this Act of the rateable property upon which the rate is to be levied.

“(2) The power to make and levy rates on the acreage system shall be exercised by the Council only by special order.

“(3) Where any person considers that the acreage system will operate unfairly in the area where it is to apply, he may, within fourteen days after the date on which the special order is confirmed, appeal on that ground against the special order to the Magistrate’s Court nearest to the public office of the Council. On hearing the appeal the Magistrate’s Court may cancel or vary the special order, or may confirm it either absolutely or subject to such conditions and modifications as the Court deems just, and the decision of that Court shall be final. 5 10

“(4) In classifying for the purpose of an acreage rate a holding of land which falls into two or more classes, the acreage of that land that is in each class shall be specified:

“Provided that in any such case, for the purpose of recovering the rate, the whole of the holding of land shall be charged with the total amount of all rates made and levied on all the classes of land that comprise the holding. 15

“(5) For the purposes of acreage rating, section 51 of the Rating Act 1925 shall be read as if paragraphs (d) and (f) were repealed, and the following paragraphs were substituted therefor: 20

“(d) In the case of every acreage rate, that it be of a stated amount for each acre of land in each class of land classified as rateable which is comprised in the property as appearing in the valuation roll: 25

“(f) Where the total amount of rates due by any one ratepayer would on the basis prescribed by this section be less than five shillings, he shall be rated at five shillings.’

“(6) In the case of every acreage rate the particulars to be transcribed in the rate book shall include the total areas of the properties, and the areas of the several classes of land in each property as appearing in the valuation roll, and the amount per acre payable as a rate with respect to each part or the whole of the property, as the case may be; and it shall not be necessary for the rate book to contain particulars of rateable values. 30 35

“(7) Section 52 of the Rating Act 1925 and form number 7 in the First Schedule to that Act shall apply to any acreage rate with such modifications as are required in consequence of this section. 40

“(8) In connection with appeals against any rate book prepared with respect to any acreage rate, section 56 of the Rating Act 1925 shall be read as if paragraph (a) was repealed and the following paragraph was substituted therefor: 45

5 “(a) That any person is rated in the rate book on property not appearing in the valuation roll, or that the area of any property or of any class of land in any property is different from the area thereof set out in the valuation roll:’”

12. Classification of land by agreement—The principal Act is hereby further amended by inserting, after section 232A (as inserted by section 11 of this Act), the following section:

10 “232B. (1) Notwithstanding any provision of this Act or any other Act or any rule of law, any classification of land for the purposes of any rate that may be levied under this Part of this Act may be made by written agreement between the Council and all of the persons whose names appear on the district valuation roll as the owners and occupiers of the land
15 which is thereby classified. Every such agreement shall define the portion of the rating area to which it applies, the classification of the lands therein, and the proportions in which the rate is to be imposed on the several classes of lands therein.

20 “(2) An agreement under this section shall be effective as between all parties who execute it and their successors in title, whether or not it names the individual parties, if it purports to be an agreement between the Council and the owners and occupiers of the land which is thereby classified; and it may
25 be in the form of a number of copies of the agreement, each signed by one or more of those persons and sealed by the Council, if the copies are bound together after execution by all of the parties.

30 “(3) Any classification of land made by agreement under this section shall, for the purpose of rating the defined area for the purpose for which the rate is levied, be deemed to have been made under section 232 of this Act.”

13. Annual charge for fire protection—The principal Act is hereby further amended by inserting, after section 284,
35 the following section:

40 “284A. (1) Instead of making and levying a rate under section 284 of this Act, the Council may, subject to the provisions of subsection (3) of this section, by special order make and levy an annual charge on all rateable property situated within the area in respect of which any payment is made by the Council under section 284 of this Act, and that annual charge shall for all purposes be deemed to be a separate rate.

“(2) The Council may classify the rateable property according to the use to which it is put, and any such annual charge may be of a different amount in respect of each class of rateable property.

“(3) The power conferred by this section to make and levy an annual charge may be exercised by the Council upon a petition signed by a majority of the ratepayers in the area of the county in which the annual charge is to be levied, or, in the discretion of the Council, may be exercised without any such petition: 5 10

“Provided that, where the Council proposes to exercise that power without any petition, a poll of the ratepayers of the area of the county in which the annual charge is to be levied shall be taken on the proposal to make and levy the annual charge, where— 15

“(a) Not less than five per cent of the ratepayers within the area in which the annual charge is to be levied, by writing under their hands delivered or sent by post to the Council and received at the offices of the Council not later than the day before the date fixed for the confirmation of the resolution to make and levy the annual charge, demand that a poll of ratepayers of the area be taken on the proposal; or 20

“(b) The Council so resolves,— and the annual charge shall not be made and levied unless a majority of the valid votes recorded at the poll are in favour of the proposal. Every such poll shall be held and taken by the Council in the manner provided by the Local Elections and Polls Act 1953, and the provisions of that Act shall, as far as they are applicable, apply with respect to every such poll.” 25 30

14. Council may purchase and develop land for commercial or industrial purposes—The principal Act is hereby further amended by inserting in Part XXVI, after section 380, the following heading and section: 35

“Land for Commercial or Industrial Purposes

“380A. (1) In this section—

“‘Commercial or industrial purpose’ means any purpose of commerce, trade, or industry; but does not include the purposes of a farm, being a dairy farm, cattle farm, pig farm, sheep farm, market garden, 40

5 orchard, apiary, nursery, poultry farm, or land used for the production for sale of crops of any kind; and 'commercial or industrial allotment' and 'commercial or industrial building' have meanings corresponding to the meaning of the term 'commercial or industrial purpose':

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

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

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

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

25 “(4) The Council may—

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

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

40 “(c) Lease any such commercial or industrial allotment to any person desiring to erect thereon one or more buildings to be used for commercial or industrial purposes:

“(d) Lease any such commercial or industrial allotment on which any building is erected to any person desiring to occupy that building for commercial or industrial purposes.

“(5) The provisions of section 350 of this Act (which relates to leases of land for housing purposes), as far as they are applicable and with the necessary modifications, shall apply with respect to every lease under subsection (4) of this section as if it were a lease under section 349 of this Act and as if references in the said section 350 to a house were references to a commercial or industrial building. 5

“(6) The provisions of sections 353 and 354 of this Act (which relate to land acquired under Part XXV of this Act for housing purposes) shall apply with respect to land purchased under this section as if it had been acquired under the said Part XXV. 10

“(7) All money received by the Council on the sale or lease of any land purchased under this section shall be paid by the Council into a separate account to be known as the Commercial and Industrial Development Account. Money in that account may be applied solely for the following purposes: 15

“(a) In the reimbursement of the General Account of an amount to cover administrative charges in respect of the purchase and development of any land purchased under this section for commercial or industrial purposes and the sale or lease thereof, not exceeding five per cent of the actual cost of the land to the Council and the development thereof (including survey fees and the cost of the provision of services): 20 25

“(b) In repayment of any money borrowed to meet any expenditure incurred under subsection (2) or subsection (3) of this section in respect of any land purchased under this section for commercial or industrial purposes, and any interest and sinking-fund payments in respect of any money so borrowed. 30

“(c) In reimbursement of the General Account or any other account of any money expended out of that account under either of the said subsections (2) and (3) in respect of any land purchased under this section for commercial or industrial purposes,— 35

and, after making the payments specified in paragraphs (a) to (c) of this subsection, may be applied for the purposes of any public work in the county. 40

“(8) The Council may from time to time raise a special loan under the Local Authorities Loans Act 1956 for any of the purposes mentioned in subsection (2) or subsection (3) of this section.” 45

15. Council may contract with owner to subdivide and develop land for housing—Section 386 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

5 “(1A) It shall be lawful for the Council, by agreement with and at the expense of the owner of any land in the county, to execute on or in connection with the land any works in respect of the subdivision and development of the land for housing purposes and the provision of services for such purposes. Money payable to the Council under any such agreement shall be a charge on the land.”

16. Bylaws as to mobile or travelling shops—Section 401 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

15 “(2) For the purposes of paragraphs (27A), (28), and (29) of subsection (1) of this section,—

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

25
30 “‘Keeper’, in relation to any one or more mobile or travelling shops, means the person by whom or on whose behalf any business is carried on by means of the mobile or travelling shop or shops.”

17. Contract bonds—The Second Schedule to the principal Act is hereby amended by omitting from clause 6 the words “and that penalty shall, in the case of default”, and substituting the words “and in the event of default the damages sustained by the Council up to the amount of the penalty shall”.

18. Subdivision of land fronting existing narrow road—

(1) The Counties Amendment Act 1961 is hereby amended by inserting, after section 24, the following section:

“24A. (1) The provisions of section 128 of the Public Works Act 1928 shall not apply to a subdivision to which this Part of this Act applies of any land which has a frontage to an existing road of a width less than sixty-six feet. 5

“(2) In any case where any allotment on a scheme plan of subdivision submitted to the Council for its approval under this Part of this Act has a frontage to an existing road of a width less than sixty-six feet which— 10

“(a) Was not laid off or dedicated pursuant to a plan of subdivision previously approved by the Council or by the Governor-General or the Governor-General in Council or the Minister of Lands under the Land Act 1924 or the Land Subdivision in Counties Act 1946 or any other enactment; or 15

“(b) Is not a road to which the provisions of subsection (10) of section 125 of the Public Works Act 1928 apply; or 20

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

then, in any case where the Council is of the opinion that if that road were a new road to be provided by the owner to give access to that allotment it would require a road of a greater width, the Council may, as a condition of its consent to its approval of that scheme plan, require the owner to set back the frontage of that allotment to a distance sufficient to enable that road to be widened to the width that would be required by the Council for a new or proposed road of a like nature under section 24 of this Act: 25 30

“Provided that the Council shall not require the owner to set back the frontage of that allotment to a distance from the middle line of the road as it originally existed greater than half the width of the road when widened to the width that would be required by the Council as aforesaid. 35

“(3) In every such case, the owner shall dedicate as a public road the strip of land between the frontage line as so set back and the frontage line as previously existing, and thereupon the land so dedicated shall form part of the existing road. 40

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

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

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

(2) The Counties Amendment Act 1961 is hereby further amended—

(a) By omitting from subsection (3) of section 24 the
25 words “sections 125, 126, and 128”, and substituting the words “sections 125 and 126”:

(b) By inserting in subsection (1) of section 33, after the words “section 24”, the words “or section 24A”.

19. Minimum frontage and area requirements—The
30 Counties Amendment Act 1961 is hereby further amended—

(a) By inserting in subsection (1) of section 26, after the word “operative”, the words “or a proposed”:

(b) By inserting in paragraph (c) of subclause (3) of
35 clause 8 of the Second Schedule, after the word “operative”, the words “or a proposed”.

20. Contribution by subdivider towards water supply—
Section 27 of the Counties Amendment Act 1961 is hereby
amended by omitting from subsection (3) the words “water
supply connection”, and substituting the words “water supply
40 system”.

21. Reserves along seashore and banks of lakes, rivers, etc.—Section 29 of the Counties Amendment Act 1961 is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The strip of land required to be reserved pursuant to subsection (1) of this section shall be so reserved only in respect of so much of the land in the scheme plan as abuts on the sea, lake, river, or stream as aforesaid and adjoins any allotment having an area of less than ten acres.” 5

22. Building lines—(1) Section 31 of the Counties Amendment Act 1961 is hereby amended by omitting from subsection (6) the words “subsection (3)”, and substituting the words “subsection (5)”. 10

(2) Section 31 of the Counties Amendment Act 1961 is hereby further amended by inserting, after subsection (8), the following subsection: 15

“(8A) Where a building-line restriction affecting any land has been imposed under this Part of this Act, and the Council subsequently determines that the building-line restriction is no longer required, it may declare the building-line restriction to be cancelled. The Council shall send notice of the cancellation to the District Land Registrar or Registrar of Deeds, as the case may require, who shall amend his records accordingly.” 20

23. Variation or revocation of scheme plan—Section 32 of the Counties Amendment Act 1961 is hereby amended by omitting from subsection (2) the words “subsection (3)”, and substituting the words “subsection (5)”. 25

24. Appeal against refusal to approve scheme plan—Section 33 of the Counties Amendment Act 1961 is hereby further amended by adding the following subsection: 30

“(5) Where an appeal by the owner against the refusal of the Council under subsection (1) of section 23 of this Act to approve a scheme plan of subdivision has been allowed by the Town and Country Planning Appeal Board, then, notwithstanding the decision of the Board, the scheme plan shall not be deemed to have been approved for the purposes of this Part of this Act, but all the provisions of this Part of this Act shall apply thereto as if the Council had not refused under that subsection to approve the scheme plan.” 35 40

25. Deposit of survey plan—Section 35 of the Counties Amendment Act 1961 is hereby further amended by repealing subsection (1), and substituting the following subsection:

- “ (1) In no case shall—
- 5 “(a) The survey plan of any land in the county which it is proposed to subdivide, being a subdivision to which the provisions of this Part of this Act apply, be deposited under the Land Transfer Act 1952, or in the Deeds Register Office; or
- 10 “(b) The transfer or conveyance or lease of any allotment or subdivision of any such land be registered under the Land Transfer Act 1952, or the Deeds Registration Act 1908; or
- 15 “(c) Any certificate of title be issued in respect of any such allotment or subdivision,—

unless—

- “ (d) The plan has been duly approved under section 34 of this Act; and
- 20 “(e) Where any land shown on the survey plan of subdivision will on the deposit of the plan vest in Her Majesty or in the Corporation pursuant to the provisions of this section, consent to the subdivision has, in the case of land subject to the Land Transfer Act 1952, been given in writing by the registered proprietor of every interest in the land that
- 25 will vest as aforesaid, and, in the case of land not subject to that Act, by every person having an interest in the land that will vest as aforesaid if that interest is evidenced by an instrument registered under the Deeds Registration Act 1908.”
- 30

26. Council to refund money paid by subdivider in certain cases—The Counties Amendment Act 1961 is hereby further amended by inserting, after section 37, the following section:

- “37A. (1) Where—
- 35 “(a) Any payment is made to the Council by the owner pursuant to subsections (2) to (4) of section 27 of this Act (which relates to water supply, drainage, and sewage disposal, or to paragraph (a) of subsection (5) of that section (which relates to the cost of new or additional road formation and construction and the provision of footpaths), or to
- 40

paragraph (b) of section 30 of this Act (which relates to the cost of forming a service lane reserve as a service lane); and

“(b) The work in respect of which the payment is made is not completed by the Council within a period of three years after the date of the payment or the date of the approval by the Council of the survey plan of the subdivision, whichever is the later,— then, subject to the provisions of subsection (3) of this section, the Council shall at the expiration of that period refund to the owner the amount paid by him to the Council as aforesaid.

“(2) Where—

“(a) The owner supplies and lays any pipes for water supply or sewage disposal pursuant to a requirement of the Council made on the ground that a water supply or, as the case may be, a sewage disposal system is likely to be available for connection thereto within a period of three years; and

“(b) A water supply or sewage disposal system is not available as aforesaid within a period of three years after the date of the approval by the Council of the survey plan of the subdivision,— then, subject to the provisions of subsection (3) of this section, the Council shall at the expiration of that period pay to the owner an amount equal to the cost incurred by the owner in supplying and laying those pipes.

“(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, a Magistrate’s Court, on application made by the Council within the said period of three years, if it is satisfied that in all the circumstances of the case there were reasonable grounds for the failure of the Council to complete the work or, as the case may be, to provide a water supply or drainage system or sewage disposal system within that period, may make an order extending to such date as it considers reasonable the time within which the Council shall complete the work or, as the case may be, provide a water supply or drainage system or sewage disposal system.

“(4) Where application is made to a Magistrate’s Court under this section,—

“(a) The obligation of the Council to make any payment to the owner pursuant to this section shall be deemed to be suspended pending the determination of the objection; and

“**(b)** If on that application the Court grants an extension of time to the Council and the Council fails to complete the work or, as the case may be, to provide a water supply or drainage system or sewage disposal system within the extended period, then, at the expiration of that extended period, the Council shall make to the owner the refund specified in subsection (1) of this section or, as the case may be, shall pay to the owner the amount specified in subsection (2) of this section.”

27. Previous approvals of Minister of Lands—Section 43 of the Counties Amendment Act 1961 is hereby amended by omitting from subsection (4) the words “those enactments shall continue to apply with respect to that scheme plan and that subdivision as if this Part of this Act had not been enacted”, and substituting the words “that enactment shall continue to apply with respect to that scheme plan and that subdivision, as if this Part of this Act had not been enacted, until the deposit of the survey plan under the Land Transfer Act 1952 or in the Deeds Register Office, as the case may be, and thereafter this Part of this Act shall apply as if the scheme plan and the survey plan had been approved by the Council under this Part of this Act”.

28. Reserves created under Land Subdivision in Counties Act 1946—Section 44 of the Counties Amendment Act 1961 is hereby amended as from the commencement of Part II of that Act by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (5) of section 18 of the Reserves and Domains Act 1953, the title of the Corporation of a county or road district to any reserve that is vested in the Corporation pursuant to subsection (1) of this section shall be deemed to have been derived by the Corporation otherwise than from the Crown.”

29. Access strips to rear sections—Clause 8 of the First Schedule to the Counties Amendment Act 1961 is hereby amended by repealing the third and fourth provisos to subparagraph (ii) of paragraph (a) of subclause (1), and substituting the following proviso:

“Provided further that, subject to the consent of the Council and, where any of the strips has a width of less than 10 ft, subject also to the condition that reciprocal rights of way shall be created over all the strips, two or more adjoining rear sites may be served by strips of any width, subject to the further condition that, except as provided in section 25 of this Act, the aggregate width of all such strips shall be not less than 10 ft and shall not exceed 20 ft.” 5