

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

*House of Representatives, 30 September 1981.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule or with double rule before first line and after last line.

*Hon. Mr Highet*

## LOCAL GOVERNMENT AMENDMENT

### ANALYSIS

- |   |   |
|---|---|
| Title   | 17. Declaring land to be required for regional roads  |
| 1. Short Title and commencement   | 18. Constituent authority may request council to declare land for regional road                                   |
| 2. Interpretation   | 19. Definition of term "disabled resident"  |
| 3. Principal administrative officer to advise Commission and Secretary that valid request for survey received | 20. Inspection of residential institution where disabled person resides   |
| 4. Action to be taken after survey taken  | 21. New sections relating to fire safety in factories inserted  |
| 5. Electors may request abolition of district   | <i>Fire Prevention and Safety in Factories</i>  |
| 6. Extraordinary vacancy on district community council or community council                                   | 636B. Interpretation  |
| 7. Apportionment of expenditure in terms of agreement   | 636C. Application to the Crown  |
| 8. Remuneration of Chairman and other members of community council  | 636D. Factories to have fire-safety certificates  |
| 9. Definitions of "improvements" and "unimproved value"   | 636E. Changes to factory premises, staffing, or activities after fire-safety certificate issued                   |
| 10. Preparation of financial statements in certain circumstances  | 636F. Occupier of factory to maintain means of escape and fire-alarm system                                       |
| 11. New section relating to Part XX of principal Act inserted   | 636G. Provision of fire-fighting equipment  |
| 273B. This Part not to apply to subdivision or development by hospital board                                  | 636H. Powers of entry and inspection to ensure compliance with fire prevention and safety bylaws and requirements |
| 12. Amalgamation of allotments  | 636I. Appeals against notices or requirements   |
| 13. Use of reserve contribution money   | 636J. Notices served by council to be suspended pending determination of appeal                                   |
| 14. Outline plans to be accepted as development plans   |   |
| 15. Certification by council of scheme plan for subdivision   |   |
| 16. Savings as to previous approvals  |   |

636K. Offences  
 636L. Penalties  
 636M. Power to order contra-  
 vention to be remedied  
 636N. Procedure relating to  
 offences  
 636O. Fire-safety certificates  
 issued under Factories  
 Act 1946 to continue in  
 force  
 22. Power to refuse building permit  
 23. New Part inserted relating to Com-  
 missioner for Disaster Recovery

## PART XLIIIA

COMMISSIONER FOR DISASTER  
RECOVERY

692A. Interpretation  
 692B. Commissioner for Disaster  
 Recovery

692C. Deputy Commissioner for  
 Disaster Recovery  
 692D. Functions of Commis-  
 sioner  
 692E. Commissioner to exercise  
 and perform powers,  
 functions, and duties of  
 local authority  
 692F. Powers, functions, and  
 duties of Deputy Com-  
 missioner  
 692G. Local authority and  
 members not to act while  
 Commissioner in office  
 692H. Appointment and func-  
 tion of advisory com-  
 mittee  
 692I. Advances and guarantees  
 of advances to Commis-  
 sioner  
 692J. Remuneration and ex-  
 penses

## A BILL INTITULED

**An Act to amend the Local Government Act 1974**

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

5

**1. Short Title and commencement**—(1) This Act may be  
 cited as the Local Government Amendment Act 1981,  
 and shall be read together with and deemed part of the Local  
Government Act 1974 (hereinafter referred to as the princ-  
ipal Act).

10

(2) Except as provided in section 21 (2) of this Act, this  
 Act shall come into force on the 28th day after the day on  
 which it receives the Governor-General's assent.

**2. Interpretation**—Section 2 (1) of the principal Act is  
 hereby amended by omitting the following definition:

15

“‘Road’ includes a street.”.

**3. Principal administrative officer to advise Commission  
 and Secretary that valid request for survey received**—Section  
 28 (5) of the principal Act (as enacted by section 2 of the  
 Local Government Amendment Act (No. 2) 1977) is hereby  
 amended by omitting the words “deliver the request for a

20

survey to the Returning Officer for the district of the territorial authority”, and substituting the following paragraphs:

- “(a) Advise the Commission and the Secretary that a valid request for a survey has been received; and
- 5   “(b) Deliver the request for a survey to the Returning Officer for the district of the territorial authority.”

**4. Action to be taken after survey taken**—Section 30 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby  
10 amended by inserting, after the word “Secretary”, the words “and the Commission”.

**5. Electors may request abolition of district**—(1) Section 49 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby  
15 amended by inserting, after subsection (2), the following subsection:

“(2A) Not less than 15 percent of the electors of any district may request that the district be abolished and included in any adjoining district or in 2 or more adjoining districts.”

20   (2) Section 49 of the principal Act (as so enacted) is hereby further amended—

- (a) By inserting in subsection (3), after the word “and”, the words “, in the case of a request under subsection (1) or subsection (2) of this section,”.
- 25   (b) By inserting in subsection (6), after the word “applies”, the words “, or the principal administrative officer of the district requested to be abolished under subsection (2A) of this section, as the case may be,”.
- (c) By inserting in subsection (8), after the expression “subsection (2)”, the expression “subsection (2A)”:
- 30   (d) By inserting in subsection (9), after the expression “subsection (2)”, the expression “subsection (2A)”.

**6. Extraordinary vacancy on district community council or community council**—Section 98 (3) of the principal Act  
35 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by omitting the words “the council”, and substituting the words “that council”.

**7. Apportionment of expenditure in terms of agreement—**Section 123 (2) of the principal Act is hereby amended by omitting the expression “623”, and substituting the expression “261”.

**8. Remuneration of Chairman and other members of community council—**The principal Act is hereby amended by inserting, after section 214 (as enacted by section 2 of the Local Government Amendment Act 1978), the following section:

“214A. (1) The Chairman of a community council may be paid such remuneration as the territorial authority from time to time fixes, at a rate not exceeding that which would be payable to him if the community were the district of a territorial authority and he were the Chairman of a standing committee of that territorial authority.

“(2) The members of a community council may be paid such remuneration as the territorial authority from time to time fixes, at a rate not exceeding that which would be payable to them if the community were the district of a territorial authority and they were members of that territorial authority.

“(3) The remuneration paid under this section shall be paid out of general revenues derived in respect of the community.”

**9. Definitions of “improvements” and “unimproved value”—**Section 230 of the principal Act (as enacted by section 31 of the Local Government Amendment Act 1980) is hereby amended by inserting, after subsection (6), the following subsections:

“(6A) For the purposes of any determination by the Valuer-General under subsection (6) of this section the Valuation of Land Act 1951 shall be read as if the following definition of the term ‘improvements’ had been substituted for the definition of that term set out in section 2 of that Act:

“‘Improvements’ means all work done or material used at any time on the land by the expenditure of capital or labour by any owner or occupier thereof in so far as the effect of the work done or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation:

“Provided that the reclamation of land from the sea shall not in any case be deemed to be improvements either of the land reclaimed or of any other land:

5 “Provided also that work done or material used on or for the benefit of any land by the expenditure of capital or labour by any owner or occupier thereof in the provision of roads or in the provision of water, drainage, or other amenities in connection with the subdivision of the land for building purposes shall not be deemed to be improvements after the land has been sold or another person has taken actual occupation of the land (whether by virtue of a tenancy for not less than 6 months certain or not):”.

10 “(6B) For the purposes of any determination by the Valuer-General under subsection (6) of this section the term ‘unimproved value’, in relation to any land, means the sum which the owner’s estate or interest in the land, if unencumbered by any mortgage or other charge, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose, and if no improvements had been made on the land.”

**10. Preparation of financial statements in certain circumstances**—The principal Act is hereby amended by inserting, after section 223 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977), the following section:

25 “223A. (1) Where any council fails to prepare annual financial statements for any 2 successive years within the period required by regulations made under section 223 of this Act for the preparation of the second of those statements, the Minister may, after consultation with the Controller and Auditor-General appoint an officer of the Audit Department or some other person or firm to prepare the annual financial statements of the council for those years.

30 “(2) Every officer of the Audit Department, or other person or firm appointed under subsection (1) of this section shall have all the powers conferred upon the Audit Office under sections 26 and 27 of the Public Finance Act 1977 in the exercise of his or its functions under that subsection.

40 “(3) The annual financial statements prepared under subsection (1) of this section shall be audited by the Audit Office, and, when so audited and delivered to the council, shall constitute the audited annual statement of the council for the purposes of any regulations made under section 223 of this Act.

“(4) All expenditure incurred by and fees payable to the Audit Department or any person or firm appointed by him in respect of the exercise of any powers or functions conferred by or under subsection (1) or subsection (2) of this section shall be recoverable from the council as a debt due by the council.” 5

**11. New section relating to Part XX of principal Act inserted**—The principal Act is hereby amended by inserting, after section 273A (as enacted by section 2 of the Local Government Amendment Act 1978), the following section: 10

*Struck Out*

“273B. **This Part not to apply to subdivision or development by hospital board**—This Part of this Act shall not apply with respect to any subdivision or development undertaken by any hospital board constituted under the Hospitals Act 1957.” 15

*New*

“273B. **Application of this Part to development by hospital boards**—This Part of this Act shall apply with respect to developments by any hospital board constituted under the Hospitals Act 1957 for the construction, erection, or alteration of permanent buildings to be used solely or principally for residential or administrative purposes, and shall not apply with respect to any other development by any such hospital board.” 20  
25

**12. Amalgamation of allotments**—(1) Section 279 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by inserting in subsection (2), after paragraph (d), the following paragraph: 30

“(da) Any allotment thereon be held in the same certificate of title as any one or more other allotments shown on the plan and held by the same owner whether contiguous thereto or not so as to comply with any operative or proposed district scheme:” 35

(2) Section 279 of the principal Act (as so enacted) is hereby further amended by inserting in subsection (3), after the expression “paragraph (d)”, the expression “or paragraph (da)”.

(3) Section 308 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby consequentially amended by inserting, after the expression “paragraph (d)”, the expression “paragraph (da)”.

 40

**13. Use of reserve contribution money**—Section 288 (3) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by adding the following paragraph:

5 “(h) For the provision or improvement of any community recreational facilities at any school, established or about to be established under Part III of the Education Act 1964, where—

10 “(i) A licence has been granted under section 6A of the Education Lands Act 1949 in respect of the use or occupation of those community recreational facilities; and

15 “(ii) The Minister of Recreation and Sport has notified the council in writing that he is satisfied that the licence so granted provides for the reasonable use by members of the public of the community recreational facilities.”

**14. Outline plans to be accepted as development plans**—

20 (1) Section 293 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by inserting in subsection (2) (as substituted by section 9 (1) of the Local Government Amendment Act 1981), before the words “The council may require”, the words “Subject to subsection (2A) of this section,”.

25 (2) Section 293 of the principal Act (as so enacted) is hereby amended by inserting, after subsection (2) (as so substituted), the following subsection:

30 “(2A) Where an outline plan has been submitted to the council under section 125 of the Town and Country Planning Act 1977, and that plan contains sufficient particulars to enable the assessments under sections 294 and 294A of this Act to be made and sections 280, 281, 283, 289, 291, 292, and 302 of this Act to be applied to the development, the council shall not require a further plan of the development  
35 to be submitted to it under subsection (2) of this section.”

**15. Certification by council of scheme plan for subdivision**—

40 Section 306 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by adding to paragraph (g) (as substituted by section 34 of the Local Government Amendment Act 1980) the expression “; or”, and the following subparagraphs:

*Struck Out*

“(iv) The effect of the application of section 74A of the Town and Country Planning Act 1977 to the plan is to remove the need for an application under section 74 of that Act; or

5

“(v) Where there was no proposed or operative district scheme in existence at the date of approval of the scheme plan, it was in accordance with recognised principles of town and country planning.”

10

**16. Savings as to previous approvals**—Section 312 (2) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by adding to paragraph (f) (as substituted by section 36 of the Local Government Amendment Act 1980) the expression “; or” and the following subparagraph:

15

*Struck Out*

“(iv) The effect of the application of section 74A of the Town and Country Planning Act 1977 to the plan is to remove the need for an application under section 74 of that Act; or

20

“(v) Where there was no proposed or operative district scheme in existence at the date of approval of the scheme plan, it was in accordance with recognised principles of town and country planning.”

25

**17. Declaring land to be required for regional roads**—(1) Section 363 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting from subsection (1) the words “any road or part thereof, whether then actually constructed or not, and any other land that is not theretofore constituted part of a road,” and substituting the following paragraphs:

30

“(a) Any road or part of a road, whether then actually ~~(constituted)~~ constructed or not:

35

“(b) Any other land, whether adjoining any road or not—”.

(2) Section 363 of the principal Act (as so enacted) is hereby further amended by omitting from subsection (6) the words “is within the region and unless the council resolves that it is of the opinion that the road”, and substituting the words “or other land is within the region and unless the council resolves that it is of the opinion that the road or other land”.

40



18. **Constituent authority may request council to declare land for regional road**—Section 364 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting the words “that  
5 any road or part thereof within its district, whether then actually constructed or not, and any other land that is not part of a road should be declared to be or to be required for the purposes of”, and substituting the following words:

- “(a) That any road or part of a road within its district,  
10 whether then actually constructed or not:  
“(b) Any other land, whether adjoining any road or not—  
should be declared to be”.

19. **Definition of term “disabled resident”**—(1) Section 636  
15 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by inserting, after the words “For the purposes of this section”, the words “and section 636A of this Act”.

(2) Section 636 (1) of the principal Act (as so enacted)  
20 is hereby further amended by inserting, after the definition of the term “apartment building” (as substituted by section 48 of the Local Government Amendment Act 1980), the following definition:

- “‘Disabled resident’ means any person residing in a resi-  
25 dential institution who suffers from physical or mental disablement to such a degree that he is seriously limited in the extent to which he can engage in the activities, pursuits, and processes of everyday life:”.

20. **Inspection of residential institution where disabled person resides**—The principal Act is hereby amended by  
30 inserting, after section 636 (as enacted by section 2 of the Local Government Amendment Act 1979), the following section:

- “636A. (1) Where the Director of Social Welfare for the  
35 area in which any residential institution is situated and the Medical Officer of Health for that area believe there is reasonable cause for concern about the well-being or interests of any disabled resident of a residential institution, they or any persons authorised by them in writing, may, after advising  
40 the council of their intention to do so, enter and inspect the residential institution at any reasonable time.

“(2) If, after the inspection of any residential institution, the Director of Social Welfare and the Medical Officer of Health, or the persons authorised by them to carry out the inspection under subsection (1) of this section, agree that the residential institution is in such a condition or is managed or conducted in a manner that is detrimental to the well-being or interests of any disabled resident they may recommend to the council— 5

“(a) That the licence granted under section 636 (3) of this Act for that institution be suspended; or 10

“(b) That the licence granted under section 636 (3) of this Act for that institution, and any subsequent licence granted under that section for that institution, should be subject to such conditions as the council thinks fit relating to the facilities provided or terms of accommodation for disabled residents. 15

“(3) Where any recommendation is made to the council under subsection (2) of this section the council shall consider the recommendation as soon as practicable and may, at that or any subsequent meeting,— 20

“(a) Impose such conditions as it thinks fit relating to the facilities to be provided or terms of accommodation for disabled residents in that or any subsequent licence granted under that section; and

“(b) Suspend any licence granted under section 636 (3) of this Act for that institution until any conditions imposed under paragraph (a) of this subsection in respect of that licence have been complied with. 25

“(4) Before suspending any licence or imposing any condition under subsection (3) of this section the council shall give the licensee an opportunity to be heard before the council or a committee of the council. 30

“(5) The licensee may appeal to the nearest District Court against the suspension of his licence or the imposition of any condition under subsection (3) of this section and the District Court may uphold the suspension or condition imposed, or— 35

“(a) Revoke any such suspension, and in so doing may impose any condition that the council could impose under subsection (3) of this section; or

“(b) Revoke or vary any condition imposed by the council.” 40

**21. New sections relating to fire safety in factories inserted—**(1) The principal Act is hereby amended by inserting, after section 636A (as inserted by section 20 of this Act), the following heading and sections: 45

*“Fire Prevention and Safety in Factories*

“636B. **Interpretation**—In sections 636c to 636o of this Act, unless the context otherwise requires,—

5 “‘Armed forces’ means the armed forces as defined in section 2 (1) of the Defence Act 1971:

“‘Dangerous goods’ means dangerous goods as defined in section 2 of the Dangerous Goods Act 1974:

“‘Factory’ means a factory as defined in section 2 (1) of the Factories and Commercial Premises Act 1981:

10 “‘Fire bylaws’ means bylaws or regulations made and in force in accordance with section 649 of this Act.

“636c. **Application to the Crown**—(1) Subject to subsections (2) and (3) of this section, sections 636d to 636o of this Act shall bind the Crown.

15 “(2) Sections 636d to 636o of this Act shall not bind the Crown in relation to any factory occupied by the armed forces.

20 “(3) In the application of sections 636d to 636o of this Act to the Crown, every reference to a council shall be read as a reference to the Commissioner of Works.

Cf. 1946, No. 43, s. 53 (12)

25 “636D. **Factories to have fire-safety certificates**—(1) The occupier of any factory shall not allow any worker to be employed in it unless a fire-safety certificate issued under subsection (5) of this section is for the time being in force in respect of that factory.

30 “(2) It shall be a sufficient defence to a charge of failing to comply with subsection (1) of this section if the Court is satisfied that, (*within 2 months*) before the date on which the offence is alleged to have occurred,—

“*(a)* An application for a fire-safety certificate was made in respect of the factory concerned; and

“*(b)* Neither that application nor any subsequent application in respect of that factory was declined.

35 “(3) Every application for a fire-safety certificate shall contain such particulars as shall be determined by the council.

40 “(4) As soon as practicable after receiving an application under subsection (3) of this section, the council shall cause the factory in respect of which the application was made to be inspected.

“*(5)* If, on such inspection, the council is satisfied that the means of escape and fire-alarm system comply with its fire bylaws, it shall issue to the occupier of the factory a fire-safety certificate which shall specify in respect of the factory—

45 “*(a)* Particulars of the means of escape; and

- “(b) Particulars of the fire-alarm system provided; and
- “(c) The number of persons normally employed in it; and
- “(d) The maximum number of persons that may be employed in it at any one time; and
- “(e) Particulars of any dangerous goods normally stored or used in it. 5

“(6) If the council is not so satisfied, it shall serve on the occupier of the factory a written notice stating the matters that do not comply with the fire bylaws and that it will decline to grant a fire-safety certificate unless those bylaws are complied with within a *(specified time being not longer than 2 months after the date of application for the certificate)* time specified in that notice. 10

“(7) Where the fire bylaws have not been complied with within the time specified in the notice served under subsection (6) of this section, and no appeal has been lodged under section 636I of this Act in respect of that notice, the council shall be deemed to have declined to grant a fire-safety certificate for the factory. 15

“(8) If at any time after issuing a fire-safety certificate in respect of any factory the council is not satisfied that the means of escape or the fire-alarm system specified in the certificate continue to comply with the fire bylaws of the council (whether because of any change to the factory or any change to those bylaws) the council shall serve a written notice on the occupier of the factory— 20

- “(a) Specifying a date on which the fire-safety certificate in respect of the factory will be cancelled unless the means of escape or fire-alarm system is altered to comply with the fire bylaws; or 30
- “(b) Specifying that the fire-safety certificate in respect of the factory is cancelled.

Cf. 1946, No. 43, s. 53 (1)–(6)

“636E. Changes to factory premises, staffing, or activities after fire-safety certificate issued—(1) No occupier of a factory in respect of which a fire-safety certificate has been issued or applied for shall— 35

“(a) Introduce changes involving—

- “(i) Any substantial increase in the number of persons employed in the factory; or 40
- “(ii) Any extension of, or structural alteration to, the factory; or
- “(iii) The introduction of any process in which dangerous goods will be used; or

“(iv) Any substantial increase in the quantity of dangerous goods stored or used in the factory;  
or

5 “(b) Introduce any other changes whatsoever that may adversely affect the efficiency of the means of escape or fire-alarm system—

unless he has given the council at least 1 month’s written notice of his intention to do so, or the council has sooner issued a fire-safety certificate under subsection (3) of this  
10 section.

“(2) As soon as practicable after receiving any notice under subsection (1) of this section, the council shall cause the factory in respect of which the notice was given to be inspected.

15 “(3) If, on such inspection, the council is satisfied that the means of escape and fire-alarm system will still comply with its fire prevention and safety bylaws it shall issue a new fire-safety certificate specifying the matters set out in paragraphs (a) to (e) of section 636D (5) of this Act.

20 “(4) If the council is not so satisfied, it shall serve on the occupier of the factory a written notice stating that the introduction of the changes specified in that notice will operate as a cancellation of the fire-safety certificate in respect of that factory; and, if any such changes are introduced, their intro-  
25 duction shall be deemed to operate as a cancellation of the fire-safety certificate.

Cf. 1946, No. 43, s. 53 (7), (8)

“636F. **Occupier of factory to maintain means of escape and fire-alarm system**—The occupier of every factory shall  
30 ensure that every means of escape and fire-alarm system specified in the fire-safety certificate issued in respect of that factory is—

“(a) Maintained in good repair; and

35 “(b) Kept free from obstruction at all times when any person is or is likely to be lawfully in the factory.

Cf. 1946, No. 43, s. 53A (1)

“636G. **Provision of fire-fighting equipment**—(1) The council may, by notice served on the occupier of a factory, require the provision of adequate and suitable fire-fighting  
40 equipment that is readily accessible at all times when any person is or is likely to be lawfully in the factory.

“(2) Where any requirement has been made under subsection (1) of this section, subsection (5) of section 649 of this Act shall apply as if the requirement had been made under a bylaw or regulation made under that section.

Cf. 1946, No. 43, s. 53A (2)

5

**“636H. Powers of entry and inspection to ensure compliance with fire prevention and safety bylaws and requirements—**

(1) The council may, by its officers or agents, enter and inspect at any reasonable time when any person is employed or engaged in any activity in any factory or any premises that the council believes on reasonable grounds to be a factory, for the purpose of ensuring that its fire prevention and safety bylaws or any notice given under section 636C of this Act are being complied with. 10

“(2) If, under subsection (1) of this section, entry is made into any premises without notice, advice that entry has been so made shall be given to the occupier as soon thereafter as is practicable. 15

*New*

**“636HA. Objections against notices or requirements—** 20

(1) The occupier of a factory who considers any notice served on him under—

“(a) Subsection (6) or subsection (8) of section 636D; or

“(b) Section 636E (4); or

“(c) Section 636G— 25

of this Act contains an incorrect application of the fire bylaws or an unreasonable requirement under section 636G of this Act may, within 14 days of the service of the notice, serve on the council a written objection to the notice or requirement setting out with reasonable particularity the grounds of the objection. 30

“(2) The council shall, as soon as practicable, inquire into and determine the objection, and in so doing shall confirm, reverse, or modify the notice or requirement.

“(3) A copy of every determination of the council under subsection (2) of this section shall be served on the objector. 35

**“636I. Appeals against notices or requirements—**(1) The occupier of a factory who considers any

*Struck Out*

notice served on him  
under—

- 5 “(a) Subsection (6) or subsection (8) of section 636D; or  
“(b) Section 636E (4); or  
“(c) Section 636G—  
of this Act contains

determination served  
on him under section 636HA (3) of this Act contains or con-  
10 firms an incorrect application of the fire bylaws or an unreason-  
able requirement under section 636G of this Act may appeal  
against it by filing in the District Court nearest that factory,  
within 14 days of the service of the **(notice)** copy of the deter-  
mination, a notice of appeal setting out with reasonable par-  
15 ticularity the grounds of the appeal.

“(2) A copy of the notice of appeal shall be served on the council.

20 “(3) When a notice under subsection (1) of this section has been filed, the Court shall fix a time and place for the hearing of the appeal; and the Registrar of the Court shall inform the appellant and the council concerned of that time and place.

25 “(4) On the hearing of an appeal under this section, the District Court Judge may by order confirm, reverse, or modify the notice or **(requirement)** determination concerned, as he thinks fit; and that order shall be final and binding on all parties.

Cf. 1946, No. 43, s. 83

30 “636J. **Notices served by council to be suspended pending determination of appeal**—Every notice served by the council under—

- “(a) Subsection (6) or subsection (8) of section 636D; or  
“(b) Section 636E (4); or  
35 “(c) Section 636G—  
of this Act shall be suspended upon the filing of any objection  
under section 636HA of this Act or appeal under section 636I  
(1) of this Act until such time as the objection or appeal has  
been determined, and shall be confirmed, reversed, or modified,  
as the case may require, in accordance with the **(order of**  
40 **the District Court)** determination of the council or order of  
the District Court, as the case may be.

## “636K. Offences—

*New*

“(A1) Every occupier of a factory commits an offence against this section who causes death or bodily injury to any person by—

“(a) Any failure to comply with, or act in contravention of, section 636D (1) or section 636F of this Act; or

“(b) Any failure to comply with any requirement served on him under section 636G of this Act; or

“(c) Any failure to comply with any order of the District Court under section 636I (4) of this Act.

“(1) Every occupier of a factory commits an offence against this section who—

“(a) Fails to comply with or acts in contravention of section 636D (1) of section 636F of this Act; or

“(b) Fails to comply with any requirement served on him under section 636G of this Act; or

“(c) Fails to comply with any order of the District Court under section 636I (4) of this Act.

“(2) In any prosecution for an offence against this section it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.

“(3) Where an occupier is charged with an offence under this section it shall be a sufficient defence to the charge if the Court is satisfied that the defendant—

“(a) Did not intend to commit the offence; and

“(b) Took all reasonable steps to ensure that the offence would not be committed.

*New*

“(4) Where the commission of an offence against subsection (A1) of this section is not proved, but the evidence proves an offence against subsection (1) of this section, the defendant may be convicted of an offence against subsection (1) of this section, notwithstanding that the information alleges an offence against subsection (A1) of this section only.



“636L. Penalties—

*Struck Out*

(1) Except as provided in subsection (2) of this section, every person who commits an offence against section 636K of this Act shall, subject to subsection (2) of this section, be liable, on summary conviction, to a fine not exceeding \$5,000 and, in the case of a continuing offence to a further fine not exceeding \$250 for every day or part of a day on which the offence has continued.

(2) Every person who commits an offence against section 636K (A1) of this Act (*that involves a failure or an act that results in an accident causing death or bodily injury to any other person,*) shall be liable on summary conviction to a fine not exceeding \$10,000.

*New*

“(3) Every person who commits an offence against section 636K (1) of this Act shall be liable on summary conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence to a further fine not exceeding \$250 for every day or part of a day on which the offence was committed.

“636M. Power to order contravention to be remedied—

(1) In any proceedings against the occupier of a factory in respect of an offence against section 636K of this Act, the District Court Judge, in addition to or instead of imposing a fine, may by order require the defendant to do any specified work, or to adopt any specified means, for the purpose of preventing the further or continued commission of the offence, and shall specify a time within which that order is to be obeyed.

“(2) Any time specified under subsection (1) of this section may from time to time be extended by the District Court Judge on the application of the defendant.

“(3) Where a District Court Judge makes an order under subsection (1) of this section instead of imposing a fine, he shall adjourn the proceedings until the time specified in the order; and if the order is obeyed he may, if he thinks fit, impose no penalty in respect of the offence concerned.

Cf. 1946, No. 43, s. 87

“636N. Procedure relating to offences—All proceedings in respect of an offence against section 636K of this Act shall be taken only on the information of a council.

Cf. 1946, No. 43, s. 91

**“636o. Fire-safety certificates issued under Factories Act 1946 to continue in force—**Every fire-safety certificate issued under the Factories Act 1946 and in force immediately before the commencement of this Act shall continue in force as if it had been issued under section 636D (5) of this Act.” 5

(2) This section shall come into force on the commencement of the Factories and Commercial Premises Act 1981.

*Struck Out*

**22. Power to refuse building permit—**(1) Section 641 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting from subsection (1) the words “the council is of the opinion that”, and substituting the words “the council determines that”. 10

(2) Section 641 of the principal Act (as so enacted) is hereby further amended by repealing subsection (2), and substituting the following subsections: 15

“(2) Notwithstanding anything in any bylaw made under section 684 of this Act, where the council determines that:

“(a) The land or the part of the land on which any building is proposed to be erected or altered is not suitable for the building or the alteration; or 20

“(b) The land or the part of the land on which any building is proposed to be erected or altered will be subject, within the useful life of the building, to erosion; or 25

“(c) The land or the part of the land on which any building is proposed to be erected or altered is or will be subject to subsidence or slippage; or

“(d) The land or the part of the land on which any residential building (as defined in section 644 of this Act) is proposed to be erected is subject to inundation by the sea or by a river, stream, lake, or any other source; or 30

“(e) The erection or alteration of any building on the land or part of the land, as the case may be, is likely to accelerate, worsen, or result in erosion, subsidence or slippage or inundation by the sea or by a river, stream, lake, or any other source, of any other land— 35

40

*Struck Out*

the council shall refuse to grant a permit for the erection or alteration of the building or residential building, as the case may be, unless the council is satisfied that adequate provision  
5 has been made for:

- “(f) In the case of any building to which paragraph (a) of this subsection refers, the rendering of the land suitable for the purposes of the building or the alteration; or
- 10 “(g) In the case of any building to which paragraph (b) of this subsection applies, the protection of the land or part of the land from erosion; or
- “(h) In the case of any building to which paragraph (c) of this subsection applies, the protection of the  
15 land or part of the land from subsidence or slippage; or
- “(i) In the case of any residential building to which paragraph (d) of this subsection applies, the protection of the building or the alteration from inunda-  
20 tion; or
- “(j) In the case of any building to which paragraph (e) of this subsection applies, the protection of that other land from erosion, subsidence, slippage, or inunda-  
tion.
- 25 “(2A) Notwithstanding anything in subsection (2) of this section or any bylaw made under section 684 of this Act, the council may, subject to such conditions as it may prescribe, issue a building permit for the erection of a building that is designed to be relocatable on any land or part of any land  
30 that is or will be subject to erosion.
- “(2B) Notwithstanding anything in subsection (2) of this section, where any land or part of the land is subject to erosion the council may issue a building permit—
- 35 “(a) For the alteration of any building on that land or the erection of any other building on that land consistent with the use and occupation of the existing buildings; or
- “(b) Where any building on that land is damaged or destroyed other than by erosion, for the restora-  
40 tion of any damage to that building or for the erection of another building on that land.
- “(2c) Where—

*Struck Out*

- “(a) Any building permit has been issued under subsection (2B) of this section; and
- “(b) The council had notified the District Land Registrar in accordance with subsection (2D) of this section 5 that it had issued the permit; and
- “(c) The council had not notified the District Land Registrar under subsection (2E) of this section that it has determined that the entry made on the certificate of title of the land is no longer required; and 10
- “(d) The building to which the building permit relates is later destroyed or damaged by erosion—  
the council and every member, employee, or agent of the council shall not be under any civil liability to any person 15 having an interest in that building solely because it has granted a permit to erect or restore a building on land that is subject to erosion.
- “(2D) In the case of any building permit issued under subsection (2A) or subsection (2B) of this section, the council shall, forthwith upon issuing the permit, notify the District 20 Land Registrar of the land registration district in which the land for which the permit was issued is situated and the District Land Registrar shall make an entry on the certificate of title to the land that a building permit has been issued in respect of a building on that land subject to sub- 25 section (2A) or subsection (2B) of this Act.
- “(2E) Where the council determines that the entry referred to in subsection (2D) of this section is no longer required, it shall send notice of the determination to the District Land Registrar who shall amend his records accordingly.” 30
- (3) Section 641 of the principal Act (as so enacted) is hereby further amended by omitting from subsection (3) the words “in the opinion of the council”, and substituting the words “the council determines that”.
- (4) Section 641 of the principal Act (as so enacted) is 35 hereby further amended by inserting in subsection (5), after the expression “subsection (2)”, the expression “or subsection (2A)”.

*New*

5 **22. Power to refuse building permit**—The principal Act is hereby amended by repealing section 641 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following sections:

10 “641. (1) Notwithstanding anything in any bylaw made under section 684 of this Act, if a proposed building or alteration to an existing building is of such a character or will be so situated that it may interfere with a subsequent subdivision of the land, the council may refuse to grant a permit to erect the proposed building or to make the alteration.

“ (2) Notwithstanding anything in any bylaw made under section 684 of this Act the council shall refuse to grant a permit for the erection or alteration of any building where—

15 “(a) The land or the part of the land on which the building is proposed to be erected or altered is not suitable for the building or the alteration unless the council is satisfied that adequate provision has been made or is to be made to render the land suitable for the building or alteration; or

20 “(b) The proposed building or alteration is, or within the useful life of the building or alteration is likely to be, subject to damage arising directly or indirectly from—

25 (i) Erosion, subsidence, or slippage of the land on which the building or alteration is proposed to be erected or any other land; or

(ii) Inundation arising from such erosion, subsidence, or slippage—

30 unless the council is satisfied that adequate provision has been made or is to be made for the prevention of that damage; or

35 “(c) Any residential building (as defined in section 644 of this Act) or any alteration to such a building is, or within the useful life of the building or alteration is likely to be, subject to damage arising directly or indirectly from inundation unless the council is satisfied that adequate provision has been made or is to be made for the prevention of that damage; or

40 “(d) The erection or alteration of the building is likely to accelerate, worsen, or result in erosion, subsidence, slippage, or inundation of the land on

*New*

which it is proposed to be erected or any other land unless the council is satisfied that adequate provision has been made or is to be made for the protection of that land from erosion, subsidence, slippage, or inundation. 5

“(3) Notwithstanding anything in any bylaw made under section 684 of this Act, where a building proposed to be erected or altered (being a building of any of the kinds referred to in subsection (3) of section 25 of the Disabled Persons Community Welfare Act 1975) would when erected or altered not comply with section 25 of the Disabled Persons Community Welfare Act 1975, the council shall refuse to grant a permit to erect the proposed building or to make the alteration. 10 15

Cf. 1974, No. 66, s. 641 (1)–(3); 1979, No. 59, s. 2

“641A. **Power to issue building permit where land subject to erosion, subsidence, slippage or inundation**—(1) Notwithstanding anything in section 641 (2) of this Act, or any bylaw made under section 684 of this Act, the council may, subject to such conditions as it may prescribe, issue a building permit for the erection of a building that is designed to be relocatable, on any land or part of any land that is or will be subject to erosion, subsidence, or slippage, if it is satisfied that the building can be relocated from that site. 20 25

“(2) Notwithstanding anything in section 641 (2) of this Act, where any building is, or within its useful life is likely to be, subject to damage arising directly or indirectly from the erosion, subsidence, or slippage of the land on which it is erected or any other land, or inundation arising from such erosion, subsidence, or slippage, the council may issue a building permit— 30

“(a) For the alteration of that building; or

“(b) For the erection of any other building on the same allotment consistent with the use and occupation of the existing building; or 35

“(c) For the restoration of any damage suffered by that building; or

“(d) For the resiting of that building on the allotment on which it is situated. 40

“(3) Where—

“(a) Any building permit has been issued under subsection (1) or subsection (2) of this section; and

*New*

- “(b) The council has notified the District Land Registrar in accordance with subsection (4) of this section that it has issued the permit; and
- 5 “(c) The council has not notified the District Land Registrar under subsection (5) of this section that it has determined that the entry made on the certificate of title of the land is no longer required; and
- 10 “(d) The building or alteration to which the building permit relates later suffers damage arising directly or indirectly from erosion, subsidence, or slippage, or inundation arising from such erosion, subsidence, or slippage—
- 15 the council and every member, employee, or agent of the council shall not be under any civil liability to any person having an interest in that building on the grounds that it was aware that the building or alteration for which the building permit was issued was, or was likely to be, subject
- 20 to damage arising directly or indirectly from erosion, subsidence, or slippage, or inundation arising from such erosion, subsidence, or slippage.
- “(4) In the case of any building permit issued under subsection (1) or subsection (2) of this section, the council
- 25 shall, forthwith upon issuing the permit, notify the District Land Registrar of the land registration district in which the land to which the permit relates is situated and the District Land Registrar shall make an entry on the certificate of title to the land that a building permit has been issued in
- 30 respect of a building on that land subject to subsection (1) or subsection (2) of this section, as the case may require.
- “(5) Where the council determines that the entry referred to in subsection (4) of this section is no longer required, it shall send notice of the determination to the District Land
- 35 Registrar who shall amend his records accordingly.
- “641B. **Giving of security**—Section 304 of this Act (relating to the giving of security by a subdividing owner) shall, with the necessary modifications, apply in any case where—
- 40 “(a) The council grants a building permit under section 641 (2) of this Act subject to any condition imposed for the protection of the land or building, as the case may require, from erosion, subsidence, slippage, or inundation; or

*New*

“(b) The council grants a building permit under section 641A (1) of this Act subject to such conditions as it may prescribe under that section—  
as if it were a condition imposed on the approval of a scheme plan. 5

Cf. 1974, No. 66, s. 641 (4); 1979, No. 59, s. 2

“641c. **Objections and appeals**—Where the Council by decision under section 641 of this Act refuses to grant a building permit, or by decision under section 641A of this Act issues a building permit subject to conditions, sections 299 and 300 of this Act (relating to objections to the council and appeals to the Planning Tribunal) shall apply with respect to the decision. 10

Cf. 1974, No. 66, s. 641 (5); 1979, No. 59, s. 2 15

“641d. **Notification to the Crown**—Where it comes to the knowledge of the council that a proposed building or alteration to an existing building to be erected or made by or on behalf of the Crown would, if a building permit were required, be such that section 641 or section 641A of this Act would apply, the council shall notify the appropriate Minister. 20

Cf. 1974, No. 66, s. 641 (6); 1979, No. 59, s. 2

“641e. **Exception**—Nothing in section 641 or section 641A of this Act shall apply to any alteration or any building permit relating to an alteration that is not likely to accelerate or worsen damage to the building or result in damage to the building or to the alteration arising directly or indirectly from erosion, subsidence, slippage, or inundation.” 25

**23. New Part inserted relating to Commissioner for Disaster Recovery**—The principal Act is hereby amended by inserting, after section 692 (as enacted by section 2 of the Local Government Amendment Act 1979), the following Part: 30

“PART XLIHIA

“COMMISSIONER FOR DISASTER RECOVERY 35

“692A. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“‘Commissioner’ means a Commissioner for Disaster Recovery appointed under section 692B of this Act:



“ ‘Deputy Commissioner’ means a Deputy Commissioner appointed under section 692c of this Act.

“692B. **Commissioner for Disaster Recovery**—(1) The Governor-General may from time to time, by Order in Council, appoint any person as the Commissioner for Disaster Recovery for the district of any local authority where—

5 “(a) A state of civil defence emergency within the meaning of the Civil Defence Act 1962 is current or has just expired in relation to the district of the local authority; and

10 “(b) The local authority concerned is unable adequately to exercise its powers, functions, and duties.

“ (2) The Commissioner shall hold office for such term, not exceeding 3 months, as shall be specified in the Order in Council by which he is appointed, and may from time to time be reappointed.

15 “ (3) Any Commissioner may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister.

20 “ (4) A Commissioner may be appointed under this section in respect of one or more local authorities.

25 “ (5) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of his being a Commissioner.

“692c. **Deputy Commissioner for Disaster Recovery**—(1) The Governor-General may appoint one or more persons as Deputy Commissioners for Disaster Recovery in the same manner as he may appoint a Commissioner.

30 “ (2) Subsections (2) to (5) of section 692B of this Act shall apply to a Deputy Commissioner as if he were a Commissioner.

35 “692D. **Functions of Commissioner**—The Commissioner shall have the function of restoring local government administration and the services and amenities provided by the local authority or local authorities over whose district or districts he has been appointed, and such other functions as may be

40 conferred upon him by this or any other Act.

**“692E. Commissioner to exercise and perform powers, functions, and duties of local authority—**(1) The Commissioner, in the name and on behalf of the local authority, may exercise any power and shall perform all the functions and duties conferred or imposed on the local authority by this or any other Act, or by any instrument or otherwise. 5

“(2) Any powers, functions, or duties conferred by any Act or otherwise on the Chairman or on any other member or members of the local authority, whether solely or in conjunction with any other person or persons, may be exercised and performed by the Commissioner. 10

“(3) The Commissioner shall, in the name and on behalf of the local authority, Chairman, or any other member or members of the local authority, as the case may require, be entitled to exercise all the rights and entitlements conferred in any manner on the local authority, or on the Chairman or any member or members of the local authority in his or their capacity as Chairman or member or members of the local authority. 15

“(4) Any power given to the local authority to do any thing by special order or special resolution or to make any bylaw may be exercised by the Commissioner by a special entry in the minute book of the local authority, signed by the Commissioner and confirmed by him by a similar entry made not earlier than 21 clear days after the date of that special entry. 20

“(5) In exercising any power in the manner prescribed by subsection (4) of this section the Commissioner shall comply, as near as is reasonably practicable in the circumstances, with the requirements relating to public notice that the local authority would have had to comply with had it made the special order, special resolution, or bylaw. 30

“(6) In particular, and without limiting the powers conferred on a Commissioner by subsection (1) of this section, the Commissioner may exercise all the powers of the local authority to make, levy, and recover rates, charges, and assessments within the district and any out-district and expend the proceeds of the rates, charges, and assessments. 35

“(7) Any document that is required to be executed under the seal of the local authority may be executed under that seal and verified by the signature of the Commissioner. 40

“692F. **Powers, functions, and duties of Deputy Commissioner**—Every Deputy Commissioner shall have such powers, functions, and duties of the Commissioner as may be conferred upon him by the Order in Council by which he is appointed, or by any subsequent Order in Council, and such other powers as may be delegated to him by the Commissioner, or conferred upon him by this or any other Act.

*New*

“692FA. **Commissioner and Deputy Commissioner not to be personally liable**—No Commissioner or Deputy Commissioner shall be personally liable for any act done or omitted to be done by him in good faith in pursuance or intended pursuance of the powers, functions, or duties conferred on him as a Commissioner or Deputy Commissioner under this or any other Act.

“692G. **Local authority and members not to act while Commissioner in office**—While a Commissioner is in office, the local authority, the Chairman of the local authority, and any member of the local authority shall not exercise or purport to exercise any power, right, or entitlement, or perform or purport to perform any function or duty conferred or imposed on it or him in that capacity by this or any other Act, or by any instrument or otherwise.

“692H. **Appointment and function of advisory committee**—(1) As soon as practicable after taking office the Commissioner shall appoint one or more advisory committees whose members shall be all members of the local authority or local authorities whose powers, functions, and duties the Commissioner has been appointed to exercise and perform, and such officers of that local authority or those local authorities as the Commissioner thinks fit.

“(2) The function of the advisory committee shall be to advise the Commissioner on any matter relating to the exercise of his powers, rights, or entitlements, or the performance of his functions or duties.

“692I. **Advances and guarantees of advances to Commissioner**—(1) The Minister of Finance may from time to time advance to the Commissioner on behalf of the local authority out of the Consolidated Account or the Loans Account,

without further appropriation than this section, such funds as he thinks fit to enable the Commissioner to exercise his powers and perform his functions and duties.

“(2) The Minister of Finance may from time to time, on behalf of the Crown, give in respect of any advances made to the Commissioner on behalf of the local authority a guarantee, indemnity, or security under section 86 of the Public Finance Act 1977. 5

“692J. **Remuneration and expenses**—(1) All expenditure incurred by a Commissioner or Deputy Commissioner in exercising his powers and performing his functions under this Act or any other enactment, and the remuneration, allowances, and expenses of the Commissioner, Deputy Commissioner, and members of the advisory committee shall be paid out of the funds of the local authority. 10 15

“(2) Where a Commissioner or Deputy Commissioner has been appointed in respect of more than one local authority the expenditure, remuneration, allowances, and expenses referred to in subsection (1) of this section shall be apportioned between those local authorities in such manner as the Commissioner shall determine. 20

“(3) There shall be paid to a Commissioner, Deputy Commissioner, and every member of the advisory committee appointed under section 692H of this Act who is not an officer of the local authority or local authorities over whose district or districts the Commissioner has been appointed, such remuneration by way of salary, fees, and allowances as may be fixed from time to time by the Minister with the concurrence of the Minister of Finance. 25

“(4) There shall be paid to the Commissioner, every Deputy Commissioner, and every member of the advisory committee appointed under section 692H of this Act who is not an officer of the local authority or local authorities over whose district or districts the Commissioner has been appointed, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if such persons were members of a statutory Board within the meaning of that Act.” 30 35