

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
12th September, 1946.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL]

20th September, 1946

Hon. Mr. Skinner

LAND SUBDIVISION IN COUNTIES

ANALYSIS

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A BILL INTITULED

AN ACT to amend the Land Act, 1924, with respect to the Subdivision of Land outside Boroughs and Town Districts. Title.

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

1. (1) This Act may be cited as the Land Sub-division in Counties Act, 1946, and shall be read together with and deemed part of the Land Act, 1924 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. IV, p. 622

- Commencement. (2) This Act shall come into force on the *first* day
of *January*, nineteen hundred and forty-seven.
- Interpretation. 2. (1) In this Act, unless the context otherwise
requires,—
- “Local authority” means a County Council or 5
a Road Board or, in respect of any land
which is not within the jurisdiction of a
County Council or Road Board, means the
Minister of Works:
- “Minister” means the Minister of Lands, and 10
includes any person for the time being
authorized to exercise any of the powers of
the Minister under this Act:
- “Owner”, in respect of any land or interest
therein, includes an owner thereof, whether 15
beneficially or as trustee, and a mortgagee
acting in exercise of power of sale, the Public
Trustee, and any local authority, Board, or
other body or authority, howsoever desig-
nated, constituted, or appointed, having power 20
to dispose of the land or interest therein by
way of sale:
- “Sale” includes exchange, gift, devise, or other
disposition affecting the fee-simple, and lease 25
for any term (including renewals under the
lease) of not less than three years; and also
includes any disposition affecting the lease-
hold interest under any such lease as
aforesaid:
- “Surveyor” means a person for the time being 30
registered as a surveyor under the Surveyors
Act, 1938.
- (2) For the purposes of this Act any division of
land, whether into two or more allotments, shall be 35
deemed to be a subdivision of that land for the purposes
of sale if at least one of those allotments is intended
for sale.
- 1938, No. 4
- Scheme plan
of subdivisions
to be approved.
3. (1) Where any land outside a borough or town
district is subdivided into allotments for the purposes
of sale or for building purposes and any allotment, 40
whether it is intended to be sold or not, has an area
of less than ten acres, a scheme plan showing the
proposed subdivision shall, unless the Minister, with
the approval of the local authority, otherwise deter-
mines, be prepared by a surveyor and submitted to the 45
Minister for his approval;

New

5 Provided that nothing in this subsection shall apply to any subdivision effected by orders of the Native Land Court for the purpose of providing Natives, within the meaning of the Native Housing Act, 1935, with sites for dwellings. 1935, No. 34

10 (2) No person shall sell, or offer or advertise for sale, or build upon, any allotment in any subdivision to which this section applies, or form any proposed road in connection therewith, unless the scheme plan has been previously approved by the Minister.

15 (3) Every scheme plan prepared for the purposes of this section shall show the whole of the land being subdivided and the several allotments and their areas and dimensions, and, in addition to existing roads, reserves, and access-ways, and land affected by existing easements, shall also show the proposed roads and their approximate grades, the proposed reserves, Crown lands, and access-ways, the situation of any land to be affected by easements which are to be created and the nature of the easements, and such other particulars as may be prescribed by regulations made under the principal Act.

25 (4) The Minister may refuse to approve any scheme plan or may approve the plan either unconditionally or upon or subject to such conditions as he thinks fit:

30 Provided that before approving any scheme plan the Minister shall submit a copy thereof to the local authority for the comments of the local authority thereon.

(5) Without prejudice to the generality of the *last preceding* subsection, the Minister may refuse to approve any scheme plan—

35 (a) If in his opinion closer subdivision or settlement of the land shown on the scheme plan is not in the public interest or the land for any other reason whatsoever is not suitable for subdivision:

40 (b) If in his opinion adequate provision has not been made for the drainage of any allotment or the disposal of sewage therefrom:

45 (c) If the subdivision would in his opinion interfere with or render more difficult or costly the carrying-out of any public work or scheme of development which is proposed or contemplated by the Minister of Works or any other Minister of the Crown or by any local authority:

(d) If in his opinion the proposed subdivision does not conform to recognized principles of town-planning.

(6) The Chief Surveyor shall give notice of any conditions upon or subject to which a scheme plan has been approved to the person who made application for the approval of the scheme plan. 5

(7) In any case where the Minister has refused to approve a scheme plan or has approved a scheme plan upon or subject to conditions or otherwise than in accordance with the comments of the local authority thereon, any person aggrieved by the decision of the Minister, or the local authority, may appeal in the prescribed manner to a Board to be appointed in that behalf by the Governor-General. The Board shall consist of a Magistrate and two other persons, one of whom shall be nominated by the Minister and one by the appellant. On any such appeal the decision of a majority (one of whom shall be the Magistrate) of the members present at a sitting of the Board shall be the decision of the Board, and that decision shall be final. The presence of the Magistrate and of one other member shall be necessary to constitute a sitting of the Board. 10 15 20

New

(8) In any case where the Native Trustee or any Maori Land Board subdivides any land vested in him or it the provisions of this Act shall apply subject to the following modifications:— 25

(a) The term "Minister" shall mean the Native Minister: 30

(b) Subsection one of this section shall apply as if the words "with the approval of the local authority" were omitted therefrom:

(c) Subsection seven of this section shall not apply. 35

4. Notwithstanding anything in this Act or in any regulations made pursuant to section *nineteen* of this Act, where there is an approved town-planning or extra-urban planning scheme under the Town-planning Act, 1926, affecting any locality, no scheme plan of land in that locality shall be approved or varied under this Act, nor shall any conditions be imposed or varied, if the scheme plan or the conditions, or any variations thereof, are inconsistent with the approved town-planning or extra-urban planning scheme. 40 45

Scheme plans and conditions to accord with schemes under Town-planning Act, 1926. See Reprint of Statutes, Vol. V, p. 488

5. (1) Without prejudice to the generality of subsection *four* of section *three* of this Act, the Minister may approve a scheme plan subject to all or any of the following conditions:—

Conditions as to use of land.

- 5 (a) A condition restricting the use of all or any of the allotments shown on the plan:
- (b) A condition restricting in the interests of public safety the use of land at road intersections or angles:
- 10 (c) A condition imposing a building-line restriction by restricting the use of land adjoining any road or access-way by prohibiting the erection of buildings or hoardings within a specified distance of one of the side-lines or of the
- 15 middle-line of the road or access-way, or between a specified line and one of the side-lines of the road or access-way.

(2) Any such condition as aforesaid shall be shown or referred to on the scheme plan and, where necessary,

20 shall be more fully described in a separate notice signed by the Minister which shall be referred to on the scheme plan.

(3) For the purposes of paragraphs (b) and (c) of subsection *one* of this section, "road" includes

25 a proposed road and any area of land which in the opinion of the Minister may be used for the purposes of a road in any further subdivision, and "access-way" includes a proposed access-way.

(4) Where a scheme plan has been approved subject to a condition imposing a building-line restriction

30 the restriction shall be fully described in a separate notice and the Chief Surveyor shall forward a copy of the notice to the District Land Registrar or Registrar of Deeds, as the case may require, who shall deposit

35 the copy in his office and register against the title to all land affected thereby a memorandum under his hand that the land is subject to the building-line restriction. Registration as aforesaid shall affect with notice of the building-line restriction all persons then having any

40 estate or interest in the land and their successors in title.

(5) In every case where a building-line restriction affecting land shown in a scheme plan has previously been imposed under section one hundred and twenty-

45 five or section one hundred and twenty-eight of the Public Works Act, 1928, or under any earlier enactment

See Reprint of Statutes, Vol. VII, pp. 678, 681

corresponding thereto, the Minister on the approval of the scheme plan shall either impose the same or some other building-line restriction or, with the approval of the local authority, declare the building-line restriction to be wholly cancelled, and in either case the building-line restriction previously imposed shall cease to have effect and the District Land Registrar or the Registrar of Deeds, as the case may require, shall amend his records accordingly. Notice of the cancellation of any building-line restriction by the Minister under the provisions of this subsection shall be given by the Chief Surveyor to the appropriate Registrar.

(6) In cases where the frontage on either side of any road has been set back by the operation of this or any other Act, or voluntarily by the owner, or by arrangement with the local authority or with any other authority, the side-line or the middle-line of the road shall, for the purposes of any building-line restriction, be taken to be the side-line or the middle-line of the road, as the case may be, as shown in the notice describing the building-line restriction.

Chief Surveyor to hold scheme plan.

6. (1) Every scheme plan approved by the Minister together with any notice of conditions restricting the use of any land shall be held by the Chief Surveyor.

(2) A copy of every scheme plan approved by the Minister together with a copy of any notice of conditions restricting the use of any land shall be forwarded by the Chief Surveyor to the local authority.

Variation or revocation of scheme plan or conditions imposed.

7. (1) Any scheme plan approved by the Minister may, on the application of the owner of the land affected thereby, be varied or revoked by the Minister as to the whole or any part of that land:

Provided that before any such variation or revocation the Minister shall refer the matter to the local authority for its comments.

(2) Any building-line restriction or other condition of a class referred to in section *five* of this Act may, either on the application of the owner of the land affected thereby made with the approval of the local authority or on the application of the local authority, be revoked or from time to time varied by the Minister either wholly or as to any part of the land affected thereby.

(3) Any variation or revocation of the scheme plan or of any building-line restriction or other such condition as aforesaid shall be noted on the scheme plan

and, where necessary, on the separate notice referred to in section *five* of this Act, and, in the case of a variation or revocation of any building-line restriction which has been registered by the District Land Registrar or Registrar of Deeds, the Registrar shall be given notice by the Chief Surveyor of the variation or revocation and shall register the same against the title to all land affected thereby.

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8. (1) Where a building-line restriction has been imposed under the provisions of this Act in relation to the whole or any part of any road, then, notwithstanding anything to the contrary in this Act, the local authority may, with the approval of the Minister, grant permits for the erection of private motor-garages adjacent to the line of the road or to a line intermediate between the line of the road and the building-line.

Motor-garage permits where building-line restriction imposed.

(2) Every such permit may be at any time cancelled by the local authority, and shall be so cancelled if the Minister so requires. Within one month after the date of the cancellation, or within such extended time as the local authority may in any case allow, the owner shall remove the garage and shall not be entitled to any compensation in respect thereof. If the owner fails to remove the garage within the time specified, the local authority may remove it at his expense, and the cost of removal may be recovered in any Court of competent jurisdiction as a debt due by the owner to the local authority.

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(3) The local authority may charge such fee as it thinks fit for the issue of any permit under this section.

9. (1) The proposed roads shown on any scheme plan shall be laid off to the best advantage having regard to the position of existing roads in the locality and the possible future requirements in the district.

Roads and rights-of-way.

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(2) Subject to the provisions of this section, the proposed roads shall be of such widths and have such grades as seem to the Minister most suitable having regard to the matters aforesaid and probable traffic on the roads.

(3) The owner shall form and completely construct to the satisfaction of the controlling authority all proposed roads shown on the scheme plan and shall, if so required by the controlling authority, provide and lay necessary pipes for water supply and sewage and construct footpaths and drains to the satisfaction of the local authority.

(4) Without prejudice to the generality of the provisions of subsection *four* of section *three* of this Act, it is hereby declared that in any case where the Minister is of opinion that owing to the subdivision and development of any land in accordance with a scheme plan there will be increased traffic on any existing road adjacent to that land or any other land vested in the same person, or a road reserve will require to be formed for use as a road, the Minister may, as a condition of his consent to the approval of the scheme plan,—

(a) Require that the owner pay, or enter into a binding contract to pay, to the controlling authority such amount as the Minister considers fair and reasonable for or towards the cost of new or additional road formation and construction or the provision of footpaths, not exceeding, in the case of additional road formation and construction or the provision of footpaths, half the estimated cost thereof:

(b) Require that the owner dedicate, or obtain the dedication of, a strip of land for widening the road.

(5) Land shown in the scheme plan as being land over which it is proposed to grant or reserve a right-of-way shall be of such width, and length as may be approved by the Minister.

(6) If any dispute shall arise as to any requirements of any controlling authority under this section, the matter shall be referred to the Minister, whose decision shall be final.

(7) Every proposed road and every piece of land shown on the scheme plan as road which is not an existing public road shall be dedicated by instrument in writing which shall be registered by the owner in the office of the District Land Registrar or, as the case may require, of the Registrar of Deeds.

(8) The Registrar shall refuse to register any instrument of dedication unless he is satisfied that the requirements of this section have been complied with,

(9) In this section "controlling authority", in relation to any road or proposed road, means the Main Highways Board or the local authority in which the control of the road or proposed road is or will become vested, and in the case of a Government road within the meaning of Part VI of the Public Works Act, 1928, or a road or proposed road situated in a district which is not within the jurisdiction of any County Council or Road Board, means the Minister of Works.

See Reprint of Statutes, Vol. VII, p. 668

10 10. (1) Subject to the approval of the Minister, any scheme plan may provide for the laying-out of access-ways complying with the provisions of this section for foot-passengers between any roads or other places whatsoever to which the public are entitled to have access.

Access-ways.

(2) Every access-way shall be of a width approved by the Minister and shall be used only for foot-passengers; and the entrances thereto shall be so fenced or barricaded that horses, cattle, or motor-vehicles cannot enter the access-way.

(3) The owner shall form and completely construct every proposed access-way to the satisfaction of the local authority.

25 (4) If any dispute shall arise as to any requirements of the local authority under this section, the matter shall be referred to the Minister, whose decision shall be final.

30 (5) Every proposed access-way and every piece of land shown on the scheme plan as access-way which is not vested in the Crown as access-way shall be transferred to the Crown by instrument in writing which shall be registered by the owner in the office of the District Land Registrar or, as the case may require, of the Registrar of Deeds, and the Registrar shall refuse to register any such instrument as aforesaid unless he is satisfied that the requirements of this section have been complied with.

40 (6) The control and management of access-ways created under this section shall vest in the local authority, which shall have power to maintain and repair any access-way.

45 (7) No person shall erect any building on any allotment adjoining any access-way unless the allotment has a frontage to a road or street.

(8) No person shall occupy any part of any allotment adjoining an access-way unless that part of the allotment has a frontage to a road, and no person shall occupy any building or part of a building situated on any allotment adjoining an access-way unless he has an access to a road or street otherwise than along the access-way. 5

See Reprint
of Statutes,
Vol. I, p. 677

(9) No person shall be entitled to require from the Crown or any local authority any contribution under the Fencing Act, 1908, by reason of the ownership or control of any access-way by the Crown or the local authority. 10

(10) Nothing in this section shall be construed to constitute any access-way a road.

Reserves along
seashore and
banks of lakes,
rivers, &c.

11. (1) On every scheme plan submitted under the foregoing provisions of this Act there shall be set aside as reserved for public purposes a strip of land not less than sixty-six feet in width along the mean high-water mark of the sea and of its bays, inlets, or creeks, and along the margin of every lake with an area in excess of twenty acres, and, unless the Minister considers it unnecessary so to do, along the banks of all rivers and streams which have an average width of not less than ten feet: 15 20

Provided that the Minister may approve the reduction of the width of the strip of land to a width of not less than ten feet if in his opinion the reduced width will be sufficient to give members of the public reasonable access to the sea, lake, river, or stream: 25

New

Provided also that nothing in this subsection shall apply with respect to the subdivision of any land which is Native land within the meaning of the Native Land Act, 1931. 30

See Reprint
of Statutes,
Vol. VI, p. 103

(2) In any case where a strip of land is set aside as required by the last preceding subsection and any land below the mean high-water mark of the sea or of its bays, inlets, or creeks or, as the case may be, any part of the bed of the lake or river or stream is vested in the person in whom the land shown in the scheme plan is vested, the Minister may require as a condition of his approval of the scheme plan that the owner shall execute, or obtain the execution of, and register, a transfer to His Majesty of the whole or a specified part of the land below the mean high-water mark or, as the case may be, of the bed of the lake or river or stream which is vested as aforesaid. 35 40 45

(3) No land set aside as a reserve, or transferred to His Majesty, pursuant to this section shall be taken into account for the purposes of the *next succeeding* section.

5 **12.** (1) In every case where the Minister is of opinion that the subdivision shown on a scheme plan is for building purposes, provision shall be made for reserves for public purposes as hereinafter appears. Reserves for public purposes.

10 (2) Subject to the provisions of this section an area of land shall be set aside as reserved for public purposes amounting to not less than four perches for each allotment on the plan available for building purposes:

15 Provided that in the case of any allotment with an area of more than one rood which in the opinion of the Minister will be used for business or industrial purposes the area to be set aside as aforesaid shall amount to not less than one-tenth of the area of the allotment:

20 Provided also that if on any other subdivision of any land, whether before or after the commencement of this Act, the owner has set aside in the same locality as reserves for public purposes an area in excess of the area that was required under the foregoing provisions of this subsection, or that would have been so required if this subsection had then been in force, or if the owner
25 has otherwise given land in the same locality as reserves for public purposes, the area required to be set aside as a reserve for public purposes under the foregoing provisions of this subsection may, if the Minister thinks fit, be reduced by the amount of the excess area set
30 aside on that other subdivision or, as the case may be, by the area of the land otherwise given for public purposes.

35 (3) The area of land to be set aside as ascertained in accordance with the *last preceding* subsection is hereinafter in this section referred to as "the appropriate area".

40 (4) If in the opinion of the Minister it is undesirable or unnecessary to set aside as a reserve for public purposes any part of the land in the scheme plan or to set aside an area as great as the appropriate area, an area of land may be set aside as Crown land to be available for disposal by way of sale for cash under the principal Act.

(5) If owing to the smallness of the appropriate area or for any other cause no land is set aside as reserves or as Crown land, or if the total area of land set aside as reserves and as Crown land is less than the appropriate area the Minister shall make it a condition of his approval of the scheme plan that an amount calculated as provided in the *next succeeding* subsection shall be paid to the Receiver of Land Revenue for the land district in which the land is situated within such time as the Minister may specify. The Minister may require the owner or some other person to enter into a bond for the payment of the amount payable as aforesaid. Any such bond may, notwithstanding the provisions of the *next succeeding* subsection, provide that the amount payable shall be determined by reference to the amounts for which specified allotments or a specified number of allotments are sold, or in any other manner whatsoever.

(6) The amount to be paid under the *last preceding* subsection shall be ascertained by deducting from the appropriate area the total area of land (if any) set aside as reserves and Crown land under the foregoing provisions of this section, ascertaining the proportion which the resultant area bears to the total area of the building allotments shown on the scheme plan, and taking that proportion of such amount as the Minister determines will be the value of the building allotments shown on the plan when the allotments are first available for sale:

Provided that any person aggrieved by a determination of the Minister as to the value of the building allotments may, while the Servicemen's Settlement and Land Sales Act, 1943, continues in force, appeal in the prescribed manner to the Land Sales Court against the determination, and the decision of the Land Sales Court thereon shall be final and conclusive.

(7) Without prejudice to the generality of the provisions of subsection *four* of section *three* of this Act, it is hereby declared that the Minister may refuse to approve a scheme plan if he does not approve the particular land which it is proposed should be set aside as a reserve for public purposes.

13. (1) On the deposit under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908, of any plan of the subdivision of the whole or any part of the land shown on a scheme plan, all lands shown on the plan of subdivision as public reserves or as Crown land shall vest in His Majesty, free from encumbrances other than such existing easements as may be approved by the Minister, and shall be held as provided in the next succeeding subsection:
- 5
- 10 Provided that no District Land Registrar or Registrar of Deeds shall deposit any plan of subdivision as aforesaid which includes land set aside as reserves or Crown land unless consent to the subdivision has been given in writing by every person having a registered
- 15 interest in the land which may be prejudicially affected by the vesting of the land in His Majesty.
- (2) Land shown as a public reserve which is vested in His Majesty under the *last preceding* subsection shall be held as a reserve set apart for the purposes indicated on the plan, and shall be subject to the provisions of the Public Reserves, Domains, and National Parks Act, 1928. Land shown as Crown land which is vested in His Majesty under the *last preceding* subsection shall be held as land available for disposal for
- 20 cash under the principal Act.
14. (1) The Receiver of Land Revenue shall pay all moneys received by him pursuant to section *twelve* of this Act and in respect of the disposal of land vested in His Majesty as Crown land available for disposal
- 25 as aforesaid to the credit of the Land for Settlements Account.
- (2) The moneys may, without further appropriation than this section, be paid out of the Land for Settlements Account as directed by the Minister for any of
- 30 the following purposes:—
- (a) The purchase of land to be held as public reserves subject to the provisions of the Public Reserves, Domains, and National Parks Act, 1928:
- 40 (b) The improvement and development of public reserves subject to the provisions of that Act:

Vesting of reserves, &c.
See Reprint of Statutes, Vol. VII, pp. 1162, 1143

Ibid., Vol. VI, p. 1134

Disposal of moneys paid in lieu of reserves.

(c) Payment to any local authority or public body in which land is vested for the purpose of public recreation in order that the land so vested may be added to, improved, or developed: 5

(d) The refund to the owner who paid the moneys to the Receiver of the amount paid by him in any case where the scheme plan is revoked within one year after the date of the approval thereof. 10

(3) The Minister shall not direct any payment under paragraph (a) or paragraph (b) or paragraph (c) of the *last preceding* subsection unless he is of opinion that the expenditure of the moneys will be of some benefit to the residents of the locality in which the land included in the scheme is situated. 15

Documents in contravention of Act not to be registered.

15. The District Land Registrar or Registrar of Deeds shall not deposit any survey plan or register any document in any case where he is of opinion that the approval of the Minister to a scheme plan is required under the foregoing provisions of this Act unless the Registrar is satisfied that a scheme plan has been so approved, that the survey plan or document is in accordance with the scheme plan, and that the whole of the roads, access-ways, public reserves, and Crown land shown on the scheme plan are, or by the deposit of the survey plan or the registration of the document, will become, public roads or vested in His Majesty as access-ways, public reserves, or Crown land as the case may be. 20 25

Local authority not to issue building permits in certain cases.

16. If any local authority is of opinion, having regard to any building already erected on any land, that a proposed building is of such a character or will be so situated that the owner thereof may subsequently desire to subdivide the land, or that the erection thereof would be contrary to the purposes of this Act, the local authority may refuse to grant a permit to erect the proposed building. 30 35

Exclusion of certain provisions of Public Works Act, 1928.

See Reprint of Statutes, Vol. VII, pp. 678, 681

17. The provisions of sections one hundred and twenty-five and one hundred and twenty-eight of the Public Works Act, 1928, shall not apply with respect to the sale or subdivision of any land in accordance with a scheme plan approved by the Minister under the foregoing provisions of this Act. 40

18. (1) The Minister may from time to time, by writing under his hand, delegate to the Surveyor-General any of the powers conferred on him under this Act.

Delegation of Minister's powers.

5 (2) In any case where the Minister has delegated any powers to the Surveyor-General as aforesaid, the Surveyor-General may, with the approval in writing of the Minister, delegate such of those powers as the Minister thinks fit to any Chief Surveyor.

10 (3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister or the Surveyor-General.

15 (4) Any delegation under this section may be made subject to such restrictions and conditions as the Minister thinks fit, and may be either general or in relation to any particular case.

20 (5) Unless and until any delegation under this section is revoked, it shall continue in force according to its tenor. In the event of the Minister or the Surveyor-General by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister or Surveyor-General, as the

25 case may be, and in the event of the Surveyor-General or Chief Surveyor to whom any delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Surveyor-General or as Chief Surveyor.

30 (6) The fact that the Surveyor-General or any Chief Surveyor exercises any power conferred on the Minister under this Act shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do.

35 19. In addition to the matters mentioned in section three of the principal Act, regulations may be made under that section for all or any of the following purposes:—

Regulations.

40 (a) Prescribing methods of making applications under this Act, and forms and documents required under this Act:

- (b) Prescribing fees payable in respect of the examination of applications under this Act, in respect of the preparation of copies of scheme plans and notices, and in respect of other matters arising under this Act: 5
- (c) Regulating areas and frontages of allotments shown on scheme plans:
- (d) Regulating the widths of roads and making provision for the imposition of specified building-line restrictions in prescribed circumstances. 10

Removal of building erected contrary to condition.

20. (1) In any case where a building has been erected contrary to any condition imposed by the Minister under this Act, a Magistrate may, on the application of the Chief Surveyor or the local authority, 15 order the owner to take down and remove, or shift, the building at his own expense.

(2) If the owner fails to comply with the order, the Minister or the local authority may take down and remove, or shift, the building and may recover from 20 the owner in any Court of competent jurisdiction all costs and expenses incurred in connection therewith.

(3) The Minister or the local authority may destroy or sell or otherwise dispose of any materials taken from the building, and in the case of the sale of any 25 materials shall apply the proceeds thereof towards the expenses incurred under this section and pay the surplus (if any) to the owner.

(4) The exercise by the Minister or by the local authority of the powers conferred by this section shall 30 not relieve any person from liability for failure to comply with the order of the Magistrate.

(5) All moneys recoverable by the Minister or by the local authority pursuant to this section shall be a charge on the land whereon the building was erected. 35 The charge shall, save as hereinafter provided, have priority over all existing or subsequent mortgages, charges, or encumbrances howsoever created, including mortgages and encumbrances in favour of the Crown. 40 Notwithstanding anything to the contrary in any other enactment, if any land subject to a charge created by that other enactment is also subject to a charge created

by this section, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created by this Act.

- 5, **21.** (1) Every person commits an offence who acts Offences.
in contravention of or fails to comply in any respect
with the provisions of this Act or with any condition or
requirement imposed by the Minister or a local autho-
rity acting under the authority of this Act or with any
10 order of a Magistrate under the *last preceding* section.
(2) Every person who commits an offence as afore-
said shall be liable on summary conviction to a fine of
one hundred pounds and, if the offence is a continuing
one, to a further fine of *five* pounds for every day
15 during which the offence continues.
(3) The continued existence of any building or any
use of land which is contrary to any condition imposed
by the Minister under this Act shall be deemed to be a
continuing offence within the meaning of this section.
20 (4) Any information in respect of any offence to
which this section applies may be laid at any time
within three years from the time when the matter of
the information arose.

- 22.** (1) Sections sixteen and seventeen of the Repeals.
25 principal Act are hereby repealed.
(2) Where any plan of subdivision has been
approved by the Minister under the said section sixteen
or any corresponding earlier enactment, the plan shall
be deemed to be a scheme plan and the approval shall
30 be deemed to be an approval of a scheme plan for
the purposes of this Act.
(3) Any building-line restriction that originated
under the said section seventeen or any corresponding
earlier enactment and that is in force on the commence-
35 ment of this Act shall enure for the purposes of this
Act as fully and effectually as if it had originated
under this Act, and accordingly shall, where necessary,
be deemed to have so originated.