

Hon. Mr. Buddo.

MUNICIPAL CORPORATIONS AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title and commencement.</p> <p>2. Section 6 of principal Act amended.</p> <p>3. Section 6 of principal Act further amended.</p> <p>4. Section 11 of principal Act amended.</p> <p>5. Disposal of ballot-papers, &c., after general elections.</p> <p>6. Section 42 of principal Act amended.</p> <p>7. Councillors' travelling-expenses.</p> <p>8. Section 74 of principal Act amended.</p> <p>9. Separate bank accounts.</p> <p>10. Overdrafts. Repeal.</p> <p>11. Temporary provision as to existing overdrafts.</p> <p>12. Fire Insurance Fund.</p> <p>13. Transfers from separate accounts.</p>	<p>14. Alternative procedure for constitution of new borough or altering boundaries of a borough.</p> <p>15. Boundaries of altered borough or subdivision to be gazetted.</p> <p>16. Mode of entering into contracts. Repeal.</p> <p>17. Section 152 of principal Act amended.</p> <p>18. Repeal.</p> <p>19. Section 167 of principal Act amended.</p> <p>20. Subways under railway.</p> <p>21. Section 216 of principal Act amended.</p> <p>22. Board to advance cost of drainage connections, &c. Power to raise money for that purpose. Repeal.</p> <p>23. Illegal erection of dwellinghouses.</p> <p>24. Section 306 of principal Act amended.</p>
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A BILL INTITLED

AN ACT to amend the Municipal Corporations Act, 1908.

Title.

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

- 5 1. (1.) This Act may be cited as the Municipal Corporations Amendment Act, 1910, and shall form part of and be read together with the Municipal Corporations Act, 1908 (hereinafter referred to as the principal Act). Short Title and commencement.
- 10 (2.) This Act shall commence on the first day of January, nineteen hundred and eleven.
- 15 2. Section six of the principal Act is hereby amended by omitting the words "fifth day of March" in subsection one, and substituting the words "fifteenth day of February." Section 6 of principal Act amended.
- 15 3. (1.) Subsection one of section six of the principal Act is hereby further amended by omitting paragraph (c), and substituting the following new paragraph:— Section 6 of principal Act further amended.
- 20 " (c.) A residential qualification, meaning thereby that he has resided for one year in New Zealand, and has resided in the borough, or in the ward of a divided borough, during the three months then last past, and is a British subject either by birth or by naturalisation in New Zealand."

(2.) This section shall not operate so as to affect any election of a member of a Council held before the general election of members next after the passing of this Act.

(3.) For the purposes of this section a man shall be deemed to reside in the place in which he has his permanent home. 5

Section 11 of principal Act amended.

4. Section eleven of the principal Act is hereby amended by omitting the words "the fourth Wednesday in March in each year" in subsection four, and substituting the words "some day in the month of March (not later than the fifteenth) in each year in which a general election of the Council is to be held." 10

Disposal of ballot-papers, &c., after general elections.

5. (1.) Immediately after the close of the poll at any general election of Councillors the Returning Officer and each Deputy Returning Officer shall seal up all the voting-papers used at his booth, and indorse such packet, and also the copy of the roll marked as provided by section twenty-three of the Local Elections and Polls Act, 1908, with the name of the booth; and each Deputy Returning Officer shall deliver the said packet and copy of the roll to the Returning Officer. 15

(2.) All such packets shall be dealt with in the manner provided by section twenty-nine of the last-mentioned Act, and all such copies of the roll shall be handed over by the Returning Officer to the Town Clerk, and shall be retained by him until the close of the next succeeding general election of Councillors. 20

Section 42 of principal Act amended.

6. Section forty-two of the principal Act is hereby amended by omitting from paragraph (h) thereof the words "(other than as a shareholder in an incorporated company or in an association or partnership consisting of more than twenty persons)," and substituting the words "(otherwise than as a member of an incorporated company in which there are more than twenty members)." 25

Councillors' travelling-expenses.

7. The Council may out of its District Fund pay to Councillors travelling on business of the Council with the authority of the Council, such travelling-expenses as may be fixed by regulations made by the Governor in Council. 30

Section 74 of principal Act amended.

8. Section seventy-four of the principal Act is hereby amended by omitting from subsection one the words "and which are payable to the district," and substituting the words "under the provisions of this Act or any by-law made thereunder or any Act incorporated therewith." 35

Separate bank accounts.

9. Notwithstanding anything in section seventy-five of the principal Act, the Council may, if it thinks fit, pay into a separate bank account all moneys accruing from any public undertaking or work controlled by it. 40

Overdrafts.

10. (1.) The Council may from time to time borrow, at a rate of interest not exceeding six per centum per annum, moneys from the bank by way of overdraft or from any corporation or person by way of temporary loan : 45

Provided that the amount borrowed and owing by the Council on any of its accounts shall not at any time exceed the estimated revenue of that account for the current year ending on the thirty-first day of March, nor shall it at the end of the month of March in any year exceed the amount of revenue accruing for that year and payable into that account and then outstanding and legally recoverable. 50

(2.) The limit specified in this section shall not be interpreted to affect the right of any bank, or corporation, or person to be repaid out of the Council's funds any moneys advanced in good faith to the Council:

5 Provided that before any bank grants any overdraft a statutory declaration by the Town Clerk and Treasurer showing the amount of the estimated revenue for that year shall be furnished to the bank.

10 (3.) Where at the end of the month of March in any year there is owing by the Council on any of its accounts an amount in excess of the amount permitted by this section, the amount of such excess shall be taken into account during the next succeeding year as if it had been borrowed during that year.

15 (4.) The provisions of sections forty-seven to forty-nine of the Local Bodies' Loans Act, 1908, shall, *mutatis mutandis*, apply to moneys borrowed under this section.

(5.) This section is in substitution for sections ninety-six to ninety-eight of the principal Act, which sections are hereby accordingly repealed.

20 11. (1.) Any Council that at the time of the passing of this Act has not raised a special loan under section ninety-seven of the principal Act or under section one hundred and fifty-five of the Municipal Corporations Act, 1900, is hereby authorised, by special order, and without taking any poll, to borrow and raise by way of special loan a sum of money sufficient to clear off any overdraft as
25 existing on the thirty-first day of March, nineteen hundred and ten.

Repeal.

Temporary provision as to existing overdrafts.

(2.) The provisions of the *last preceding* section shall not come into force as regards any such Council until the thirty-first day of March, nineteen hundred and eleven.

30 12. The Council may in every or any year set aside out of its General Account any moneys to form a fund for the re-erection, repair, or reinstatement of any buildings or other property of the Corporation that may become destroyed or damaged by fire, and may from time to time invest any moneys so set aside and pay the proceeds of such investment into the said fund.

Fire Insurance Fund.

35 13. The Council may annually transfer to the General Account from each separate account kept by it such sum as in the opinion of the Council represents the proportionate part of the office, clerical, legal, and other like expenses of the Council attributable to such separate account:

Transfers from separate accounts.

40 Provided that if the Audit Office considers that the sum so transferred is excessive, or that no sum should be transferred from any particular separate account, the Council shall forthwith re-transfer from the General Account the whole, or so much thereof as the Audit Office directs, of the sum transferred from that separate
45 account.

50 14. (1.) On the presentation to the Governor of a petition praying that any area be constituted a new borough or added to or excluded from any borough, signed by at least ten per centum of the ratepayers within that area, and accompanied by a deposit of ten pounds, the Governor shall, by Order in Council gazetted, direct that a poll be taken on the proposal contained in the petition; and if the result of the poll is in favour of the proposal, the Governor may, if he thinks fit, declare according to the tenor of the proposal that the area therein described shall be constituted a new borough or added
55 to or excluded from any borough.

Alternative procedure for constitution of new borough or altering boundaries of a borough.

(2.) Before directing the taking of the poll as aforesaid, the Governor shall direct a Commission, consisting of the Commissioner

of Crown Lands and the officer in charge of the valuation district in which the area is situated, to inquire and report to him as to the suitability for municipal control of the area referred to in the petition, and to make such alterations of the boundaries thereof as they deem necessary and advisable.

(3.) The said Commission shall have all the powers and functions of a Commission under the Commissions of Inquiry Act, 1908.

(4.) The poll shall be taken within the area as fixed by the said Commission, and the proposal to be submitted at the poll shall be modified accordingly.

(5.) The Governor may by Order in Council make such appointments and arrangements (including the preparation of a voters roll) as he deems necessary for the purpose of taking the poll.

(6.) The cost of taking the poll shall be defrayed by such local authority as the Governor by Order in Council directs.

(7.) If the result of the poll is not in favour of the proposal, then no fresh petition containing a like proposal shall be presented to the Governor within two years after the date of the poll.

(8.) The provisions of this section shall be deemed to be in addition to and not in substitution for those of sections one hundred and seventeen and one hundred and eighteen of the principal Act.

Boundaries of altered borough or subdivision to be gazetted.

15. (1.) Whenever a new borough is constituted or the boundaries of an existing borough are altered, the boundaries of the borough and of every district affected by such constitution or alteration shall be defined by notice in the *Gazette* under the hand of the Minister of Internal Affairs.

(2.) A copy of every special order made by any Council creating subdivisions in a borough or altering the boundaries of any subdivision, together with a certificate under the hand of the Mayor that the special order has been duly passed, shall be sent to the said Minister and shall be by him gazetted free of charge, and such special order shall take effect only from the date of such gazetting or from some later date specified in the special order.

(3.) No such special order shall be gazetted unless it is previously sent to the Chief Surveyor of the district in which the borough is situated together with a plan showing the boundaries of the subdivisions affected by the change, and unless the Chief Surveyor or some person appointed by him in that behalf certifies that the description contained in the special order is sufficient to render the boundaries of each subdivision affected capable of identification.

(4.) If the description in any special order is defective, but the Chief Surveyor or person as aforesaid certifies that the same can be amended, and the defect cured without making any change in what was evidently intended to be the area comprised in the description, then the same may be so amended at any ordinary meeting of the Council without making a new special order.

(5.) The production of a copy of the *Gazette* containing any such special order shall, until the contrary is proved, be conclusive evidence for all purposes that the special order was duly made.

Mode of entering into contracts.

16. (1.) No contract which is made by the Council and the amount or value of which exceeds twenty pounds shall be valid so as to charge either the Corporation or any other party thereto, unless it is

made or ratified by a resolution of the Council or is made by an agent expressly authorised in that behalf by a resolution of the Council. Notwithstanding anything contained in section fifty-one of the principal Act, the power to pass any such resolution shall not
5 be delegated by the Council to any committee thereof.

(2.) Subject to the *last preceding* subsection.—

(a.) Any contract which if made between private persons must be by deed shall, when made by the Council, be in writing under the seal of the Corporation :

10 (b.) Any contract which if made between private persons must be in writing signed by the party to be charged therewith shall, if made by the Council and if the Corporation is the party to be charged therewith, be in writing either under the seal of the Corporation or signed on
15 behalf of the Council by some person thereunto lawfully authorised :

(c.) Any contract which if made between private persons may be made verbally without writing may be made in like manner by the Council, or on behalf of the Council by
20 some person thereunto lawfully authorised.

(3.) If in any legal proceedings in which the validity of any contract is in issue it is proved or admitted that the contract was made by the Council, or by any member, officer, servant, or agent of the Council on its behalf, the existence of an authorising resolution
25 as required by subsection *one* of this section shall be presumed until the contrary is shown.

(4.) This section is in substitution for section one hundred and thirty-two of the principal Act, and that section is hereby repealed
30 accordingly, but shall continue to apply to all contracts made by the Council before the commencement of this Act. Repeal.

17. Subsection one of section one hundred and fifty-two of the principal Act is hereby amended, as from the coming into operation of the principal Act, by omitting paragraph (c) and substituting the following :—
35 Section 152 of principal Act amended.

“(c.) In the case of a borough constituted before the first day of January, nineteen hundred and one, has actually, and whether legally or not, been maintained and controlled as a public highway by any one or more of such local authorities and used by the public, for twenty years immediately
40 preceding the said first day of January, nineteen hundred and one :

“(d.) In the case of a borough constituted on or after the said first day of January, nineteen hundred and one, has actually, and whether legally or not, been maintained and controlled as a public highway by any one or more
45 of such local authorities and used by the public, for twenty years immediately preceding the date of such constitution.”

18. Sections one hundred and sixty and one hundred and sixty-
50 one of the principal Act are hereby repealed. Repeal.

Section 167 of
principal Act
amended.

19. Section one hundred and sixty-seven of the principal Act is hereby amended by adding thereto the words "and the amount so imposed shall be recoverable as a rate."

Subways under
railway.

20. A Council may agree with the Minister of Railways for the construction by the Minister of a subway under any Government railway, and any such agreement may provide for the payment by the Council of the whole or any part of the cost of such construction and maintenance. 5

Section 216 of
principal Act
amended.

21. Section two hundred and sixteen of the principal Act is hereby amended by repealing subsection four, and substituting the following in lieu thereof:— 10

"(4.) If the owner fails to do the work specified in the notice and as therein directed, the Council may, if it thinks fit, cause the same to be done, and may recover from him the costs and expenses of the work, together with five per centum of those costs and expenses for supervision, and interest at the rate of six per centum per annum on the total sum until payment thereof; and such costs and expenses, percentage, and interest shall, until payment thereof, be a charge on the premises with respect to which the work was done." 15

Power to advance
cost of drainage
connections, &c.

22. (1.) The Council and the owner of any premises may agree, in writing, that any moneys payable by the owner under any provision of Part XXIII of the principal Act for or in respect of any work, materials, or things executed, provided, or done by the Council on or to those premises in pursuance of that Part of the principal Act or of any by-law of the borough on the subject of drainage or sanitation shall be repayable in one amount at a fixed time, with interest at a rate not exceeding six per centum per annum, or by instalments extending over a number of years, with interest at the rate aforesaid. 20 25

(2.) Such agreement may contain any incidental provisions, and may provide for the earlier payment of the remaining instalments, or any of them, on terms to be mentioned in the agreement. 30

(3.) Such agreement may, where the moneys are repayable in one amount, contain provisions for securing the repayment thereof; and where the moneys are repayable by instalments, each such instalment shall be recoverable as a rate, subject nevertheless to the following conditions:— 35

(a.) The owner for the time being of the premises in question shall in all cases be deemed the person primarily liable for payment: 40

(b.) A separate book shall be kept by the Collector of Rates to the Council, in which particulars of such instalments (distinguishing capital from interest), and of the works in respect whereof they are payable, and of the dates for payment thereof, and of the names of persons paying the same shall be entered; and such book shall be *prima facie* evidence of the correctness of its contents. 45

(4.) The moneys payable by the owner as aforesaid shall include not only the actual cost of the work, materials, or things, but also a sum equal to five per centum of such actual cost to cover the cost of supervision by the servants of the Council. 50

(5.) Capital moneys advanced by the Council under this section may, when repaid, be advanced to other owners for the purposes

aforesaid, and subject thereto all such capital moneys shall be applied in or towards the repayment of any special loan raised as hereinafter mentioned, either by payment into the sinking fund (if any) or in such other manner as the Council, with the sanction of
5 the Audit Office, determines.

(6.) Interest moneys on any advances shall be applied in or towards payment of the interest or other annual charges in respect of the special loan aforesaid.

10 (7.) For the purpose of providing funds out of which advances as aforesaid may be made, the Council may borrow moneys by way of special loan under the Local Bodies' Loans Act, 1908, and any such special loan may form part of a special loan raised for the execution of any municipal drainage-works, or it may be raised at any time after the execution of such works, and the special rate made
15 for the security of the said loan may be made and levied over the whole of the borough or over any defined portion thereof.

Power to raise money for that purpose.

(8.) This section is in substitution for section two hundred and nineteen of the principal Act, and that section is hereby accordingly
repealed.

Repeal.

20 23. Every dwellinghouse which, after the commencement of this Act, is erected in breach of the provisions of section two hundred and ninety-four of the principal Act shall be deemed to be unfit for occupation, and may be dealt with under section two hundred and ninety-one thereof, without the necessity of any certificate as
25 therein mentioned.

Illegal erection of dwellinghouses.

24. Section three hundred and six of the principal Act is hereby amended by inserting, after the word "Sunday" in subsection one, the words "Good Friday, or Christmas Day."

Section 306 of principal Act amended.