

MUNICIPAL CORPORATIONS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Municipal Corporations Act 1954.

Clause 2 provides that the person presenting a petition to the Governor-General for the constitution of a borough or town district or for a revision of borough or town district boundaries must give to the local authorities concerned at least 30 days' notice of his intention to present the petition accompanied by a copy of the prayer of the petition.

Clause 3 provides that when a new district is created and comprises or includes part only of a then existing district or when the boundaries of a district are altered, any easements in gross over land in that part or in the area added to or excluded from the district which before the constitution of the new district or the alteration of boundaries were vested in the Corporation of the district in which that part or area was formerly included may be vested in the Corporation of the new district or of the district to which that area is added by the execution of a certificate to that effect by the local authority of the district in which that part or area was formerly included. This is intended to provide a simplified procedure in such cases and to avoid the necessity of the easements being vested by a transfer.

Clause 4 increases from £1 to £3 the minimum water rate that a Council may levy.

Clause 5 authorises Councils to levy a uniform annual charge for water supply as an alternative to levying a water rate or charging according to the amount of water consumed.

Clause 6 authorises Councils to levy a uniform annual charge for drainage as an alternative to levying a drainage rate.

Clause 7 is intended to clarify a doubt as to the effect of an amendment made to section 150 (3) (d) of the principal Act by section 14 of the Municipal Corporations Amendment Act 1959. The purpose of the amendment is to authorise the sale or exchange, subject to the consent of the Minister, of land which is an endowment for the general purposes of the district and is not subject to any express prohibition on sale or exchange. The clause makes it clear, and removes a doubt in this respect as to the effect of the 1959 Amendment, that the proceeds of the sale of any such land need not be applied in the purchase of other land to be held for the same purposes and that land received by way of exchange need not be held for the same purposes.

Clause 8: Section 351c of the principal Act provides that the Council may approve a plan of subdivision subject to a condition that the subdividing owner shall, in lieu of creating reserves, pay a sum of money to the Council or enter into a bond for such payment. This clause declares such a bond to be an interest in land for the purposes of section 137 of the Land Transfer Act 1952, and the Council will accordingly be entitled to lodge a caveat against the land.

Clause 9 provides that the Council may, as a condition of its approval of a plan of subdivision, require the subdividing owner to set aside as a reserve for the purposes of a service lane any land in the subdivision or adjoining the land in the subdivision and owned by the same owner which the Council considers will in future be needed as a service lane or as part of a service lane. The Council may require the owner to pay, or enter into a binding contract to pay, to the Council an amount in respect of the cost of the formation of the land as a service lane, not exceeding the estimated cost.

Clause 10 enables a Council which has approved a plan of subdivision subject to certain easements being granted or reserved to cancel in whole or in part its requirements as to easements, whether before or after the plan has been deposited.

Clause 11 authorises a Council to acquire shares in any company formed for the purpose of erecting one or more commercial buildings for occupancy by its shareholders, and to borrow money for the purpose of acquiring any such shares and paying calls thereon. Money in the Fire Insurance Fund, instead of being applied in the erection or purchase of a building to replace one destroyed by fire, may be applied in the acquisition of shares in such a company.

Clause 12 authorises a Council to contract with owners of land in the district to undertake, at the expense of the owner, the work of subdividing and developing the land for housing purposes.

Hon. Mr Götz

MUNICIPAL CORPORATIONS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Municipal Corporations Act 1954

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

1. Short Title—This Act may be cited as the Municipal Corporations Amendment Act 1961, and shall be read together with and deemed part of the Municipal Corporations Act 1954* (hereinafter referred to as the principal Act).

*1957 Reprint, Vol. 10, p. 377
Amendments: 1958, No. 81; 1959, No. 91; 1960, No. 73

2. Notice of petition to constitute borough or town district or to alter boundaries—(1) Section 7 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Not less than thirty days before a petition is presented to the Governor-General under subsection (1) of this section, not being a petition by a Town Council to which the proviso to paragraph (a) of that subsection applies, a copy of the prayer of the petition and a notice in writing of the intention to present the petition signed by the person intending to present the petition shall be served on every local authority in whose district any part of the area proposed to be constituted a borough is situated.” 5 10

(2) Section 11 of the principal Act is hereby amended by adding, as subsection (2), the following subsection: 15

“(2) Not less than thirty days before a petition is presented to the Governor-General under this section, a copy of the prayer of the petition and a notice in writing of the intention to present the petition signed by the person intending to present the petition shall be served on every local authority in whose district any part of the area proposed to be constituted a town district is situated.” 20

(3) Section 12 of the principal Act is hereby amended by adding, as subsection (2), the following subsection: 25

“(2) Not less than thirty days before a petition is presented to the Governor-General under subsection (1) of this section, a copy of the prayer of the petition and a notice in writing of the intention to present the petition signed by the person intending to present the petition shall be served on every local authority whose boundaries are proposed to be altered.” 30

3. Vesting of easements on constitution of new district or alteration of boundaries—The principal Act is hereby further amended by inserting in Part I, after section 28, the following heading and section:

“Vesting of Easements on Constitution of New District or Alteration of Boundaries” 35

“28A. (1) Where, whether before or after the commencement of this section,—

“(a) A new district has been constituted comprising or including part only of a district then existing; or 40

“(b) The boundaries of any district have been altered by the inclusion therein or the exclusion therefrom of any area,—

the local authority in whose district that part or area was formerly included may execute under the seal of the Corporation a certificate that all easements in gross over any land in that part or area that, immediately before the constitution
5 of the new district or alteration of boundaries, were vested, and at the date of the execution of the certificate remained vested, in that Corporation, with such exceptions (if any) as are specified in the certificate, shall vest in the Corporation of the new district or, as the case may be, of the district in
10 which the area was included, and on the execution of that certificate those easements shall vest accordingly.

“(2) On the application under the seal of the Corporation by the local authority of the district in the Corporation of which any easement has vested pursuant to the provisions
15 of subsection (1) of this section, and on the production for inspection of the certificate referred to in that subsection, the District Land Registrar, on being satisfied that the easement has not been excepted from the vesting, shall enter particulars of the vesting in the register.

20 “(3) In this section the term ‘district’ includes a county and a road district.”

4. Minimum water rates—(1) Section 95 of the principal Act (as substituted by section 8 of the Municipal Corporations Amendment Act 1959) is hereby amended by omitting from
25 the proviso to paragraph (a) of subsection (2) the words “one pound” wherever they occur, and substituting in each case the words “three pounds”.

5. Uniform annual charge for water—(1) Section 95 of the principal Act (as substituted as aforesaid) is hereby
30 further amended by repealing subsection (3), and substituting the following subsection:

“(3) Instead of levying a rate under subsection (2) of this section, the Council may, by special order,—

35 “(a) Decide to make and thereafter may make charges in respect of the ordinary supply of water, according to the quantity of water consumed by any person receiving the same as measured by meter, of such amount as may from time to time be fixed by resolution in that behalf publicly notified, or as may
40 be agreed on with any such person; or

“(b) Decide to make and thereafter may make a uniform annual charge in respect of the ordinary supply of water of such amount as may from time to time be fixed by resolution in that behalf publicly notified:

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“Provided that the uniform annual charge payable in respect of lands and dwellinghouses to which water can be but is not supplied, situate within one hundred yards from any part of the water-works, shall not exceed half the charge payable in respect of lands and dwellinghouses to which water is supplied.”

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(2) Section 98 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “water rates”, the words “and uniform annual charges”:
- (b) By inserting in subsection (2), after the words “water rate”, the words “or uniform annual charge”:
- (c) By inserting in subsection (2), after the words “part only of the rate”, the words “or charge”.

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6. Uniform annual charge for drainage—(1) Section 103 of the principal Act (as substituted by section 9 of the Municipal Corporations Amendment Act 1959) is hereby amended by inserting, after subsection (1), the following subsection:

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“(1A) Instead of making and levying any such rate, the Council may make a uniform annual charge for drainage:

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“Provided that any such annual charge may be a uniform annual charge for each water closet or urinal served, either directly or through a private drain, by a public drain.”

(2) Section 103 of the principal Act (as substituted as aforesaid) is hereby further amended by inserting in subsection (2), after the words “the rate”, the words “or annual charge”.

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7. Sale or exchange of endowment land—(1) Section 150 of the principal Act is hereby amended by adding the following subsection:

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“(4) Notwithstanding anything in subsection (3) of this section, the Council, with the consent of the Minister and subject to such terms and conditions as the Minister thinks fit, may sell or exchange any land vested in the Corporation as an endowment for the general purposes of the district and not subject to any express prohibition or restriction as to sale or exchange. Nothing in subsection (2) of this section shall apply with respect to the proceeds of any such sale or to any land received on any such exchange.”

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(2) Section 150 of the principal Act is hereby further amended by repealing the proviso to paragraph (d) of subsection (3) (as added by section 14 of the Municipal Corporations Amendment Act 1959).

5 (3) Section 14 of the Municipal Corporations Amendment Act 1959 is hereby repealed.

8. Bond for payment of money in lieu of reserves—Section 351c of the principal Act (as enacted by subsection (1) of section 28 of the Municipal Corporations Amendment Act

10 1959) is hereby amended by adding the following subsection:
“(4) Every bond under subsection (1) of this section shall be deemed to create an interest in land for the purposes of section 137 of the Land Transfer Act 1952, and shall be deemed to be a covenant running with the land and shall

15 bind subsequent owners accordingly.”

9. Council may approve plan of subdivision subject to creation of reserve for service lane—(1) The principal Act is hereby further amended by inserting, after section 351c (as enacted as aforesaid), the following section:

20 “351cc. Where the Council is of the opinion that any land of the subdividing owner comprising part of or adjoining the land being subdivided may be utilised or required in the future for a service lane, the Council may, as a condition of its approval of the plan,—

25 “(a) Require the owner to set aside the first-mentioned land as a reserve for the purposes of a service lane; and

30 “(b) Require the owner to pay, or enter into a binding contract to pay, to the Council in respect of the cost of the formation of that reserve as a service lane such amount as the Council specifies, not exceeding the estimated cost thereof.”

(2) Section 351A of the principal Act (as enacted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby amended by adding to

35 paragraph (c) of subsection (1) the following subparagraph:
“(iii) The owner make provision for future service lanes in accordance with section 351cc of this Act; or”.

(3) Section 351H of the principal Act (as enacted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby amended by inserting, after

40 the words “section three hundred and fifty-one c”, the words “or section three hundred and fifty-one cc”.

10. Council may revoke conditions as to easements—Section 351E of the principal Act (as enacted by subsection (1) of section 28 of the Municipal Corporations Amendment Act 1959) is hereby amended by adding, as subsections (2) and (3), the following subsections:

“(2) Where the Council approves a plan of subdivision conditionally on any specified easements shown on the plan being duly granted or reserved, the Council may at any time, whether before or after the plan has been deposited in the Land Registry Office or the Deeds Register Office, revoke any such condition in whole or in part.

“(3) Where the Council revokes any such condition in whole or in part, then—

“(a) In any case where the plan of subdivision has not been deposited, a memorandum of the revocation shall be endorsed on the plan:

“(b) In any case where the plan of subdivision has been deposited, the Council shall forward an authenticated copy of the resolution of the Council revoking that condition to the District Land Registrar or Registrar of Deeds, as the case may require, who shall endorse a memorandum thereof on the deposited plan.”

11. Council may acquire shares in company erecting commercial building for occupation by shareholders—(1) The principal Act is hereby further amended by inserting after section 360, the following heading and section:

“Shares in Company Erecting Commercial Building for Occupation by Shareholders

“360A. (1) The Council may from time to time, on behalf of the Corporation of the district, acquire, hold, and dispose of shares and other rights in any company formed with the object of erecting on land of the company one or more commercial buildings for occupation by its shareholders.

“(2) For the purpose of paying for any such shares or rights or any calls on any such shares, the Council may borrow money by way of special loan under the Local Authorities Loans Act 1956.

(2) Section 128 of the principal Act is hereby amended by adding to the proviso the words “or in the acquisition of shares and other rights in a company formed with the object of erecting one or more commercial buildings for occupation by its shareholders pursuant to the provisions of section 360A of this Act”.

12. Council may contract with owner to subdivide and develop land for housing—Section 369 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

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