

## MUNICIPAL CORPORATIONS AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Municipal Corporations Act 1954.

*Clause 1* relates to the Short Title and commencement. *Clause 11* and the Schedule (metric conversions) are to come into force on 1 January 1973, and the remaining provisions are to come into force on the date of the passing of the Act.

*Clause 2* empowers the Council to make *ex gratia* payments to persons who suffer injury or loss of or damage to property while assisting any traffic officer employed by the Council, and to the dependants of any person who is killed while rendering such assistance. The Council is empowered to enter into contracts of insurance for that purpose.

*Clause 3*: Section 266 (2) of the principal Act provides that a fire-protection bylaw made by the Council under that section will not come into force until it is approved by the Minister.

This clause provides that where a bylaw approved by the Minister has adopted in full and without addition or amendment a model bylaw declared to be a standard specification under the Standards Act 1965, the consent of the Minister will not be required to any amending bylaw which adopts in full and without addition or amendment any standard specification amending the specification that was originally adopted.

*Clause 4* authorises the Council to provide or assist in providing social welfare services for the benefit of the inhabitants of the district and, in consultation with the Department of Social Welfare, to promote or assist in promoting co-operation in and co-ordination of social welfare activities in the district. This power includes power to provide land and buildings and to furnish and maintain such buildings, to meet necessary costs and expenses of establishing, managing, and maintaining such services and activities, and to prepare and publish posters, abstracts, and other material. The Council may make grants or loans to organisations providing or assisting in such services and activities, and may guarantee loans raised by such organisations.

*Clause 5* exempts from the licensing provisions of section 317A of the principal Act children's homes registered under Part I of the Child Welfare Amendment Act 1927 and child care centres licensed under regulations made pursuant to section 45A of the Child Welfare Act 1925. Children's homes are required to be registered by the Minister of Social Welfare and inspected by the Director-General of Social Welfare, and child care centres are required to be licensed under the Child Care Centre Regulations 1960 (S.R. 1960/167), which require them to conform to local fire and other bylaws.

*Clause 6:* Section 338 of the principal Act empowers the Council to guarantee a portion of mortgages granted for housing purposes. The guarantee must not exceed one-third of the principal sum secured by the mortgage, and that principal sum must not exceed an amount prescribed by the Minister by notice in the *Gazette*.

*Subclause (1)* of this clause abolishes the limit of the amount of the principal sum in respect of which a guarantee may be given by the Council. The maximum of one-third of the principal sum is retained.

*Subclause (2)* repeals section 338 (5) of the principal Act, which provides that the Minister of Finance may fix the maximum total amount for which the Council may give guarantees under that section. No such maximum has ever been fixed.

*Subclause (3):* Section 340 of the principal Act empowers the Council to guarantee certain mortgages in replacement of mortgages granted for housing purposes. The principal money of the replacement mortgage must not exceed an amount prescribed by the Minister by notice in the *Gazette* and the amount of the replacement mortgage guaranteed must not exceed the amount owing under the original mortgage at the time of its repayment.

This subclause abolishes the limit of the amount of the replacement mortgage that may be guaranteed by the Council. The provision that the amount guaranteed may not exceed the amount owing under the original mortgage at the time of its repayment is retained.

*Clause 7:* Section 350 (4) of the principal Act provides that land is not subdivided for the purposes of that Act by the granting of a lease of owner-occupier flats on the land.

This clause restricts subsection (4) to cases where the area of the land on which the flats are erected does not exceed 2,000 square metres (approximately half an acre).

*Clause 8:* Section 351c of the principal Act provides that the Council may require a subdividing owner, instead of setting aside land for reserves, to make a cash payment to the Council. All money received by the Council in lieu of reserves or from the sale or letting of land in lieu of reserves is to be applied by the Council for the purposes set out in that section.

This clause extends the purposes for which such money may be applied, and enables the Council to apply it, for recreational purposes for the benefit of the inhabitants of the locality in which the subdivided land is situated, in the improvement or development of the foreshore of the sea or the bed of any lake the control of which has been vested in the Council pursuant to section 165 of the Harbours Act 1950, or in the erection, improvement, or development of certain structures in the bed of the sea or lake immediately contiguous to the foreshore or bed of the lake the control of which has been vested in the Council. Section 165 authorises the controlling authority to erect baths, bath-houses, boatsheds, jetties, slipways, and certain other structures.

*Clause 9* re-enacts in an amended form section 386 (1) (8A) of the principal Act, which empowers the Council to make bylaws relating to the playing of musical instruments or the operation of loudspeakers, megaphones, wireless sets, bells, or similar devices in streets or public places or on land or in buildings licensed for certain purposes.

The new paragraph (8A) is in wider and more general terms. It empowers the Council to make bylaws regulating, controlling, or prohibiting the making of noise in streets or public places or in or upon land or buildings, if the noise is likely to cause nuisance or annoyance to persons in any street or public place or residing in the vicinity of any street or public place or in the vicinity of that land or those buildings.

A bylaw made under the new paragraph (8A) will not come into force unless and until it is approved by the Minister.

*Clause 10* empowers the Council to make bylaws prohibiting or regulating the setting or placing of spring-jaw or gin traps for animals within the district or within such parts thereof as are specified in the bylaws.

The clause validates such bylaws already made.

*Clause 11* effects a metric conversion of the imperial measurements appearing in the principal Act. The conversions are not exact, but have been rounded off to a convenient figure in each case.

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*Hon. Mr Highet*

## MUNICIPAL CORPORATIONS AMENDMENT

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### ANALYSIS

Title	
1. Short Title and commencement	5. Exemption of children's homes and child care centres from licensing
2. Compensation to persons suffering injury or death or damage to or loss of property while assisting traffic officer	6. Guarantees by Council of mortgages granted for housing purposes
3. Bylaws in respect of prevention of fire	7. Land not subdivided by lease of owner-occupier flats
4. Powers of Council to provide or promote social welfare services	8. Reserves for public purposes
	9. Bylaws as to noise
	10. Bylaws as to spring-jaw or gin traps
	11. Metric conversions
	Schedule

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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,  
5 as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Municipal Corporations Amendment Act 1972, and shall be read together with and deemed part of the Municipal Corporations Act 1954\* (hereinafter referred to  
10 as the principal Act).

(2) Section 11 of this Act and the Schedule to this Act shall come into force on the 1st day of January 1973.

\*Reprinted 1969, Vol. 4, p. 2439  
Amendments: 1970, No. 89; 1971, No. 62

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

**2. Compensation to persons suffering injury or death or damage to or loss of property while assisting traffic officer—** The principal Act is hereby amended by inserting, after section 119A (as inserted by section 8 of the Municipal Corporations Amendment Act 1964), the following section: 5

“119B. (1) The Council may from time to time make *ex gratia* payments to any person, or, as the case may be, to the dependants of any person, who, while rendering assistance to, or performing any action under the control or authority of, a traffic officer acting in the execution of his duty, suffers personal injury or death or loss of or damage to his property. 10

“(2) The Council may from time to time enter into contracts of insurance insuring persons and their dependants against any loss resulting from any injury to or the death of those persons or any loss of or damage to their property suffered while rendering assistance to, or performing any action under the control or authority of, a traffic officer acting in the execution of his duty. 15 20

“(3) In this section the term ‘traffic officer’ means a traffic officer within the meaning of the Transport Act 1962 who is an officer of the Council.”

**3. Bylaws in respect of prevention of fire—**Section 266 of the principal Act (as substituted by section 24 (1) of the Municipal Corporations Amendment Act 1971) is hereby amended by adding to subsection (2) the following proviso: 25

“Provided that where—

“(a) The Minister has approved a bylaw made under this section or regulations having the force of bylaws have been made under subsection (5) of this section; and 30

“(b) The bylaw adopts, under section 27 of the Standards Act 1965, the whole of a standard specification made under that Act or, as the case may be, the regulations adopt the whole of any such standard specification, without, in either case, any modification or addition,— 35

any subsequent bylaw made by the Council amending the bylaw so approved by the Minister or, as the case may be, the regulations shall not require the approval of the Minister if it adopts under the said section 27 without modification 40

or addition the whole of any standard specification amending the specification that was adopted in the original bylaw or in the regulations, as the case may be.”

4. **Powers of Council to provide or promote social welfare services**—The principal Act is hereby further amended by inserting, after section 305A (as substituted by section 30 (1) of the Municipal Corporations Amendment Act 1971), the following section:

10 “305B. (1) The Council may provide or assist in providing social welfare services for the benefit of the inhabitants of the district, and, in consultation with the Department of Social Welfare, may promote or assist in promoting co-operation in and co-ordination of social welfare activities in the district.

“(2) For those purposes the Council may—

15 “(a) Take, purchase, or otherwise acquire or provide land and buildings within the district, and furnish and maintain any such buildings:

“(b) Meet the cost of such expenses as may be necessary for the establishment, management, and main-  
20 tenance of social welfare services and activities:

“(c) Prepare and publish posters, abstracts, and other material in connection with social welfare services and activities.

“(3) The Council may—

25 “(a) Make grants of money, or make advances on such terms as it thinks fit, or grant tenancies or leases of land at such rental for such term and on such conditions as it thinks fit, to the trustees or other governing authority of any body (whether in-  
30 corporated or not) which is not conducted for private profit and the object or principal object of which is to provide or assist in providing social welfare services:

35 “(b) In the name and on behalf of the Corporation, by deed or other instrument and subject to such terms and conditions as it thinks fit, guarantee the repayment of money advanced to the trustees or other governing authority of any such body.

40 “(4) The Public Bodies Leases Act 1969 shall not apply to any tenancy or lease granted under this section.”

**5. Exemption of children's homes and child care centres from licensing**—Section 317A of the principal Act (as inserted by section 26 (1) of the Municipal Corporations Amendment Act 1968) is hereby amended by adding to the definition of the term “boardinghouse” in subsection (1) the words “or any children's home registered under Part I of the Child Welfare Amendment Act 1927, or any child care centre licensed under regulations made pursuant to section 45A of the Child Welfare Act 1925 (as inserted by section 2 of the Child Welfare Amendment Act 1958)”.

**6. Guarantees by Council of mortgages granted for housing purposes**—(1) Section 338 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) The portion of the principal money the payment of which may be guaranteed by the Corporation under this section shall not exceed one-third of the total principal money secured by the mortgage.”

(2) Section 338 of the principal Act is hereby further amended by repealing subsection (5).

(3) Section 340 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Corporation shall not under this section guarantee in respect of any replacement mortgage repayment of any money in excess of the principal money secured by the original mortgage at the time of its repayment.”

(4) Section 342 of the principal Act is hereby consequentially amended by omitting from paragraph (a) (as amended by section 34 (1) (d) of the Municipal Corporations Amendment Act 1971) the words “the amount for the time being prescribed by the Minister by notice in the *Gazette* for the purposes of the said section 337 or section 338 or section 340, as the case may be”, and substituting the words “the amount for the time being prescribed by the Minister by notice in the *Gazette* for the purposes of the said section 337 or, as the case may be, the amount specified in the said section 338 or section 340”.

(5) Section 34 of the Municipal Corporations Amendment Act 1971 is hereby consequentially amended—

(a) By repealing paragraphs (b), (c), and (d) of subsection (1):

- (b) By omitting from subsection (3) the words “or section 338 or section 340” where they first occur:
- (c) By omitting from subsection (3) the words “or section 338 or section 340, as the case may be”.
- 5 (6) Clauses 4 and 5 of the Municipal Corporations (Housing Loans) Order 1967 are hereby consequentially revoked.

**7. Land not subdivided by lease of owner-occupier flats—**  
10 Section 350 of the principal Act is hereby amended by inserting in subsection (4) (as added by section 35 of the Municipal Corporations Amendment Act 1971), after the words “this section, land”, the words “having an area of not more than 2,000 square metres (and being, in the case of land subject to the Land Transfer Act 1952, the whole of the land  
15 comprised in 1 certificate of title)”.

**8. Reserves for public purposes—**(1) Section 351c of the principal Act (as substituted by section 26 (1) of the Municipal Corporations Amendment Act 1964) is hereby amended by inserting in subsection (5A) (as inserted by  
20 section 5 of the Municipal Corporations Amendment Act 1966), after paragraph (b), the following paragraph:

“(c) Apply any money to which subsection (4) of this section applies for the purpose of—

25 “(i) Improving or developing, for recreational purposes, any foreshore or the bed of any lake, whether within or outside the district, where the control of that foreshore or the bed of that lake, as the case may be, has been vested in the Council by an Order in Council under section 165 of the Harbours Act 1950 (as substituted by section 9 (1)  
30 of the Harbours Amendment Act 1961):

35 “(ii) Erecting, improving, and developing, for recreational purposes, on the bed of the harbour or of the sea or, as the case may be, of the lake immediately contiguous to any foreshore or bed of any lake, whether within or outside the district, the control of which has been vested in the Council pursuant to the said section 165 any thing that  
40 pursuant to paragraph (a) of subsection (3) of that section the public body controlling that foreshore or bed of that lake is empowered to erect,—”.



(2) Section 351c of the principal Act (as so substituted) is hereby further amended by inserting in the said subsection (5A), after the words "improvement, or development", the words "or, as the case may be, the erection of that thing".

**9. Bylaws as to noise—**(1) Section 386 of the principal Act is hereby amended by repealing paragraph (8A) of subsection (1) (as inserted by section 31 (1) of the Municipal Corporations Amendment Act 1959), and substituting the following paragraph:

"(8A) Regulating, controlling, or prohibiting the making of noise—

"(a) In streets or public places; or

"(b) In or upon land or buildings—

where such noise is likely to cause nuisance or annoyance to persons in any street or public place or residing in the vicinity of any street or public place or in the vicinity of that land or those buildings:

"Provided that no bylaw made under this paragraph shall come into force unless and until it is approved by the Minister."

(2) Section 31 of the Municipal Corporations Amendment Act 1959 is hereby consequentially amended by repealing subsection (1).

**10. Bylaws as to spring-jaw or gin traps—**(1) Section 386 of the principal Act is hereby further amended by adding to subsection (1) (as amended by section 38 (1) of the Municipal Corporations Amendment Act 1968) the following paragraph:

"(40) Prohibiting or regulating the setting or placing of animal traps of the spring-jaw or gin-trap type within the district or within such parts thereof as are specified in the bylaws."

(2) Every bylaw made before the passing of this Act which would have been valid if this section had been in force when the bylaw was made is hereby validated and declared to have been lawfully made.

**11. Metric conversions**—(1) The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

5 (2) Notwithstanding anything in the Schedule to this Act, anything done before the commencement of this section under any provision of the principal Act amended by that Schedule which was valid when it was done shall not be invalidated by reason of any amendment to that provision made by that Schedule.

10 (3) Section 4 of the Municipal Corporations Amendment Act 1962 is hereby consequentially amended by repealing paragraphs (b), (c), and (d) of subsection (5).

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Section 11 (1)

## SCHEDULE

AMENDMENTS OF PRINCIPAL ACT  
(METRIC CONVERSIONS)

Section Amended	Amendment
Section 4 ..... ..	<p>By omitting from paragraph (c) the words "9 square miles", and substituting the words "25 square kilometres".</p> <p>By omitting from paragraph (c) the words "6 miles", and substituting the words "10 kilometres".</p> <p>By omitting from the proviso to paragraph (c) the words "the acre", and substituting the words "every 4,000 square metres".</p>
Section 8 ..... ..	<p>By omitting from paragraph (c) the words "2 square miles", and substituting the words "5 square kilometres".</p> <p>By omitting from paragraph (c) the words "4 miles", and substituting the words "6.5 kilometres".</p> <p>By omitting from the proviso to paragraph (c) the words "the acre", and substituting the words "every 4,000 square metres".</p>
Section 95 (as substituted by section 8 (1) of the Municipal Corporations Amendment Act 1959)	<p>By omitting from subsection (2) (b) the words "100 yards", and substituting the words "90 metres".</p> <p>By omitting from subsection (3) (b) (as substituted by section 5 (1) of the Municipal Corporations Amendment Act 1961) the words "100 yards", and substituting the words "90 metres".</p>
Section 103 (as substituted by section 7 (1) of the Municipal Corporations Amendment Act 1968)	<p>By omitting from subsection (4) the words "100 ft", and substituting the words "30 metres".</p>
Section 169 ..... ..	<p>By omitting from subsection (6) the words "20 feet" wherever they occur, and substituting in each case the words "6 metres".</p>
Section 170 ..... ..	<p>By omitting from subsection (3) the words "66 feet", and substituting the words "20 metres".</p> <p>By omitting from subsection (3) the words "1 inch in 8 inches", and substituting the words "1 centimetre in 8 centimetres".</p> <p>By omitting from subsection (3A) (as inserted by section 4 (2) of the Municipal Corporations Amendment Act 1962) the words "66 feet but not less than 40 feet", and substituting the words "20 metres but not less than 12 metres".</p>

SCHEDULE—*continued*  
 AMENDMENTS OF PRINCIPAL ACT—*continued*  
 (METRIC CONVERSIONS)—*continued*

Section Amended	Amendment
Section 186 .....	By omitting from subsection (1) (as substituted by section 4 (4) of the Municipal Corporations Amendment Act 1962) and from subsection (2) the words "66 feet" wherever they occur, and substituting in each case the words "20 metres". By omitting from the said subsection (1) the words "40 feet", and substituting the words "12 metres". By omitting from the proviso to the said subsection (1) the words "33 feet", and substituting the words "10 metres".
Section 188 .....	By omitting from subsection (1) (as amended by section 4 (5) (b) of the Municipal Corporations Amendment Act 1962) the words "not less than 33 feet nor more than 50 feet from the middle line", and substituting the words "not less than 10 metres nor more than 15 metres from the middle line". By omitting from subsection (2) (as amended by section 4 (5) (c) of the Municipal Corporations Amendment Act 1962) the words "less than 66 feet nor greater than 100 feet", and substituting the words "less than 20 metres nor greater than 30 metres".
Section 203 .....	By omitting the words "66 feet", and substituting the words "20 metres".
Section 207 .....	By omitting from subsection (1) (b) the words "2 inches", and substituting the words "50 millimetres".
Section 209 .....	By omitting the words "half a mile", and substituting the words "800 metres".
Section 224 .....	By omitting from subsection (7) (a) the words "100 feet", and substituting the words "30 metres". By omitting from subsection (7) (b) the words "200 feet", and substituting the words "60 metres".
Section 257 .....	By omitting from subsection (2) the words "100 yards", and substituting the words "90 metres".

*Municipal Corporations Amendment*

SCHEDULE—*continued*  
 AMENDMENTS OF PRINCIPAL ACT—*continued*  
 (METRIC CONVERSIONS)—*continued*

Section Amended	Amendment
Section 273 .....	By omitting from subsection (1) the words "100 yards", and substituting the words "90 metres".
Section 299 .....	By omitting the words "1 mile", and substituting the words "1.6 kilometres".
Section 302 .....	By omitting from subsection (2) the words "300 square feet", and substituting the words "28 square metres". By repealing paragraphs (a) to (d) of subsection (3), and substituting the following paragraphs: "(a) If the height of the dwellinghouse does not exceed 4.5 metres ..... 4.5 metres. "(b) If the height of the dwellinghouse exceeds 4.5 metres but does not exceed 7.6 metres ..... 6 metres. "(c) If the height of the dwellinghouse exceeds 7.6 metres but does not exceed 10.7 metres ..... 7.6 metres. "(d) If the height of the dwellinghouse exceeds 10.7 metres ..... 9 metres." By omitting from subsection (4) the words "50 feet", and substituting the words "15 metres". By omitting from subsection (4) the words "15 feet", and substituting the words "4.5 metres". By omitting from subsection (7) the words "1 foot", and substituting the words "300 millimetres". By omitting from the proviso to subsection (10) the words "15 feet", and substituting the words "4.5 metres".
Section 326 .....	By omitting from the definition of the term "house" the words "3 acres", and substituting the words "1.2 hectares".

SCHEDULE—*continued*

AMENDMENTS OF PRINCIPAL ACT—*continued*

(METRIC CONVERSIONS)—*continued*

Section Amended	Amendment
<p>Section 351BB (as inserted by section 23 (1) of the Municipal Corporations Amendment Act 1964)</p>	<p>By omitting from subsection (5) and also from subsection (6) the words "66 feet" wherever they occur, and substituting in each case the words "20 metres".</p> <p>By omitting from subsection (6) the words "40 feet", and substituting the words "12 metres".</p> <p>By omitting from the proviso to subsection (6) the words "33 feet", and substituting the words "10 metres".</p>
<p>Section 351BC (as inserted by section 24 of the Municipal Corporations Amendment Act 1964)</p>	<p>By omitting from subsection (1) and also from subsection (2) the words "66 feet", and substituting in each case the words "20 metres".</p> <p>By omitting from subsection (5) the words "33 feet", and substituting the words "10 metres".</p>
<p>Section 351BD (as inserted by section 25 of the Municipal Corporations Amendment Act 1964)</p>	<p>By omitting from subsection (3) the words "4 feet 6 inches nor more than 20 feet", and substituting the words "1.3 metres nor more than 6 metres".</p> <p>By omitting from subsection (4) the words "12 feet and not more than 35 feet", and substituting the words "3.6 metres nor more than 10.7 metres".</p> <p>By omitting from the first proviso to subsection (4) the words "20 feet", and substituting the words "6 metres".</p>
<p>Section 351F (as enacted by section 28 (1) of the Municipal Corporations Amendment Act 1959)</p>	<p>By omitting from subsection (1) (as amended by section 4 (5) (d) of the Municipal Corporations Amendment Act 1962) the words "middle line of that future street as the Council specifies, being not less than 33 feet", and substituting the words "middle line of that future street as the Council specifies, being not less than 10 metres".</p> <p>By omitting from subsection (1A) (as inserted by section 36 (1) of the Municipal Corporations Amendment Act 1971) the words "33 feet", and substituting the words "10 metres".</p>

SCHEDULE—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*METRIC CONVERSIONS—*continued*

Section Amended	Amendment
Section 351 <del>0</del> (as enacted by section 28 (1) of the Municipal Corporations Amendment Act 1959)	By omitting from paragraph (b) the words "66 feet" wherever they occur, and substituting in each case the words "20 metres".
Section 353 .....	By omitting from the first proviso to subsection (6) the words "66 feet", and substituting the words "20 metres". By omitting from subsection (6) the words "33 feet" wherever they occur, and substituting in each case the words "10 metres".
Ninth Schedule .....	By omitting from clause 6 the words "1 mile", and substituting the words "1.6 kilometres".