

# MUNICIPAL CORPORATIONS AMENDMENT BILL

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## EXPLANATORY NOTE

THIS Bill amends the Municipal Corporations Act 1954.

*Clause 1* relates to the Short Title.

*Clause 2*: Section 12 (1) (a) of the principal Act provides that a petition to the Governor-General to alter the boundaries of a district must be "in accordance with regulations", but no such regulations have been made.

This clause omits that requirement, the effect of which will be that section 401 of the principal Act specifying the requirements as to petitions will apply.

The amendment is retrospective to the commencement of the principal Act, in order to validate petitions that have been presented in the past.

*Clause 3*: The effect of this clause is to remove the requirement in section 29 (1) (b) of the principal Act that in order to possess a residential qualification as an elector a person must be a British subject or have the status of a British subject or be an Irish citizen, and to reduce from 3 months to 1 month the required period of residence in the district.

This amendment does not affect the provision in section 56 (b) of the principal Act disqualifying aliens from being elected as Mayor or as a Councillor.

*Clause 4* substitutes new sections 92A to 92G for sections 92A to 92F of the principal Act, which permit Borough Councils and Town Councils to adopt differential rating in the district or in any ward. The existing provisions apply only to general rates and apply only where the land value rating system is in force in the district.

The new sections 92A to 92G permit the Council to adopt differential rating with respect to all rates made and levied in the district or in any ward or special rating area or community, or with respect to any of these rates, and the provisions apply irrespective of the system of rating in force in the district.

The new *section 92D* provides that a special order under *section 92A* or *section 92B* or *section 92C* may modify the resolution to make that special order because of representations made to the Council before the date of the meeting at which that resolution is confirmed as a special order. In that case it will not be necessary to begin the special order procedure afresh in order to meet such representations.

Subject to these changes, the new sections 92A to 92G follow the existing provisions, the only other changes being consequential on the amended provisions referred to above.

*Clause 5* provides for repeals that are consequential on *clause 4*.

*Clause 6* amends section 103 of the principal Act, which empowers the Council to make and levy a drainage rate or annual charge for drainage.

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Subsection (5) of that section provides that the proceeds of the rate or charge shall be available only for the purpose of the maintenance and extension of public drains of the district or the payment of annual charges on any loans raised in connection with the drainage system of the district.

This clause provides that the proceeds of a drainage rate or annual charge may also be expended on the operation, maintenance, and extension of sewage treatment plants.

*Clause 7:* Several provisions of the principal Act relating to the payment to the Council for work done on private land by agreement with the owner or on default by the owner provide that interest at the rate of 6 percent per annum is to be paid on the amount owing.

This clause inserts a new section 125A in the principal Act providing that the rate of interest in these cases is to be fixed by the Minister of Finance by notice in the *Gazette*, but until that rate is first fixed by him is to be at the rate of 7.5 percent per annum, which is the present rate under section 87 of the Judicature Act 1908 in respect of a judgment for debt or damages.

This will not apply in the case of money owing at the passing of the Act. In such cases, the existing rate will continue to be payable.

*Clause 8* re-enacts in an amended form section 365 of the principal Act, under which the Council is empowered to graze sheep on land (other than scenic or historic reserves) held by or under the control of the Council, and for that purpose to purchase sheep, and sell any such sheep and the produce thereof.

The new section 365 empowers the Council to graze any kind of livestock on any such land, but otherwise follows the existing provisions.

*Clause 9* increases from \$10,000 to \$50,000 the amount for which a Council may contract without requiring a performance bond from the contractor.

*Clause 10* re-enacts in an amended form clause 8 of the Sixth Schedule to the principal Act, relating to the conditions on which streets may be stopped by the Council.

The present clause 8 provides that on an appeal to the Town and Country Planning Appeal Board or a Magistrate's Court against a decision of the Council relating to the stopping of a street, the Board or Court is not to confirm the decision of the Council unless satisfied that a way to the lands in the vicinity has been left or provided as convenient as that theretofore afforded by the street.

On an appeal to the Town and Country Planning Appeal Board (*Re An Auckland City Street Stopping Proposal 5 N.Z.T.P.A. 203*), the Board decided that clause 8 required consideration to be given not only to the effect of the stopping on lands adjoining the proposed stoppage but also to those in the vicinity, and that the way to be afforded must in all respects be as convenient as that provided by the street before the stopping. The Board recommended that clause 8 be amended so as to restore the position that existed before the principal Act was passed.

This clause gives effect to that recommendation, and the new clause 8 provides that on an appeal the Board or Court may not confirm the decision of the Council unless satisfied that a convenient way to the lands in the vicinity of the street is left or provided.

*Hon. Mr Highet*

## MUNICIPAL CORPORATIONS AMENDMENT

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### ANALYSIS

Title	92E. Notice to Valuer-General
1. Short Title	92F. Levying of differential rate
2. Alteration of boundaries of districts	92G. Application of proceeds of differential rate
3. Residential qualifications	5. Consequential repeals
4. Differential rates	6. Drainage rate
<i>Differential Rates</i>	7. Rates of interest
92A. Differential rates	8. Grazing of livestock on land held by, or under control of, Council
92B. Alteration to basis of differential rating	9. Contracts by Council
92C. Revocation of differential rating	10. Conditions as to stopping of streets
92D. Special orders	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**—This Act may be cited as the Municipal Corporations Amendment Act 1976, and shall be read together with and deemed part of the Municipal Corporations Act 1954\* (hereinafter referred to as the principal Act).

\*Reprinted, 1969, Vol. 4, p. 2439

Amendments: 1970, No. 89; 1971, No. 62; 1972, No. 131; 1974, No. 9; 1975, Nos. 2, 52, 93

**2. Alteration of boundaries of districts**—Section 12 (1) (a) of the principal Act is hereby amended as from its commencement by omitting the words “in accordance with regulations”.

**3. Residential qualifications**—Section 29 (1) of the principal Act (as substituted by section 8 (1) of the Municipal Corporations Amendment Act 1974) is hereby amended by repealing paragraph (b), and substituting the following paragraph: 5

“(b) A residential qualification, meaning thereby that he has resided for 1 year in New Zealand and has resided in the district during the period of 1 month then last past. For the purposes of this paragraph a person shall be deemed to reside in the place in which he has his permanent home.” 10 15

**4. Differential rates**—The principal Act is hereby amended by repealing sections 92A to 92F and the heading preceding section 92A (as inserted by section 2 of the Municipal Corporations Amendment Act 1975), and substituting the following heading and sections: 20

*“Differential Rates*

“92A. **Differential rates**—(1) Instead of making and levying any rates as uniform rates over the district as a whole, or, as the case may be, over any ward as a whole or over any special rating area as a whole, the Council may, pursuant to a special order, decide to adopt a system of rating on a differential basis so that— 25

“(a) The rates made and levied in respect of any one or more specified types or groups of property (those types or groups being determined on the basis of such criteria of any kind whatsoever as the Council thinks fit) may vary from those rates made and levied in respect of another specified type or group of property; or 30

“(b) The rates made and levied in respect of property in any specified zone within the district, ward, or special rating area under an operative district scheme under the Town and Country Planning Act 1953 may vary from those rates made and levied in respect of property in another such zone within the district, ward, or special rating area: 35 40

5 “Provided that the rates made and levied upon  
any rateable property that is used for any purpose  
which under any operative, proposed, or draft  
district scheme within the meaning of the Town  
and Country Planning Act 1953 is neither a  
predominant use nor a permitted conditional use in  
the zone in which the property is situated shall be  
the rates which would be made and levied if that  
property were in another zone where that use is a  
10 predominant use or a permitted conditional use.

“(2) The following provisions shall apply with respect to  
every special order under subsection (1) of this section:

15 “(a) The special order may be made with respect to all  
rates made and levied over the district or ward or  
special rating area, as the case may be, or with  
respect to any of those rates specified in the order,  
or with respect to all those rates with the ex-  
ception of any specified rates:

20 “(b) The resolution to make the special order shall specify  
the date on which differential rating shall come  
into force in the district, ward, or special rating  
area, as the case may be, which shall be a day not  
earlier than the 1st day of April preceding the date  
fixed for the confirmation of the resolution and not  
25 later than 12 months after that 1st day of April:

“(c) Before giving public notice of the place and date for  
the meeting to confirm the resolution to make the  
special order, the Council shall cause to be  
deposited in the office of the Council a statement  
30 specifying—

“(i) The proposed basis or bases for differential  
rating within the district, ward, or special rating  
area, as the case may be, and the matters taken  
into account in establishing the proposed basis or  
35 bases; and

“(ii) The general effect that the introduction of  
differential rating is expected to have on the  
incidence of rates as between ratepayers or groups  
of ratepayers within the district, ward, or special  
40 rating area, as the case may be; and

“(iii) Such other matters as the Council con-  
siders relevant:

“(d) Every such statement shall be open for inspection by the public without fee for at least 1 month before the date fixed for the confirmation of the resolution to make the special order, and public notice of the times when and the place or places where that inspection may be made shall be given by the Council. 5

“(3) Where under this section the Council decides to make and levy on a differential basis any specified rate or rates but not all rates, or all rates with the exception of any specified rates, in the district or in any ward or special rating area, then, unless the context otherwise requires, sections 92B to 92G of this Act shall have effect only in relation to the rate or rates to be made and levied on a differential basis. 10

“(4) In this section and in sections 92B to 92G of this Act the term ‘ward’ includes any division of the district constituted for financial purposes; and also includes any community constituted under the Local Government Act 1974. 15

“(5) Nothing in this section or in sections 92B to 92G of this Act shall apply with respect to any uniform charge on rateable property made and levied by the Council, notwithstanding that by any other provision of this Act or by any other Act the charge is deemed to be a rate, or that the Council has resolved to make and levy the charge as a rate. 20

“92B. **Alteration to basis of differential rating**—The Council may, by special order, alter the basis or bases on which differential rating is applied in the district or in any ward or special rating area, as the case may be, and section 92A (2) of this Act shall, with the necessary modifications, apply in respect of every such alteration as if the resolution to make the special order were a resolution passed under that section: 25 30

“Provided that no subsequent such alteration of the basis or bases shall be made so as to come into effect before—

“(a) The expiration of 5 years after the coming into effect of the immediately preceding alteration under this section; or 35

“(b) Where the land value or capital value rating system is in force in the district, the date of the coming into force of the first revision of the district valuation roll for the district under the Valuation of Land Act 1951 made after the coming into effect of the immediately preceding alteration under this section,— 40

whichever is the earlier.

“92C. **Revocation of differential rating**—(1) The Council may, by special order, declare that differential rating applying in the district or in any ward or special rating area shall be revoked.

5 “(2) Every resolution to which this section applies shall specify the date on which differential rating shall be revoked, which shall be a day not earlier than the 1st day of April preceding the date fixed for the confirmation of the resolution and not later than 12 months after that 1st day of April.

10 “92D. **Special orders**—Notwithstanding anything in section 77 of this Act, a confirming resolution making a special order under section 92A or section 92B or section 92C of this Act may modify the resolution to make that order to such extent as the Council considers necessary by reason of any representations made to it before the date of the meeting at which the resolution to make that order is confirmed.

15 “92E. **Notice to Valuer-General**—The Town Clerk shall forthwith give notice in writing to the Valuer-General of every decision made by the Council pursuant to any of the provisions of sections 92A to 92C of this Act.

20 “92F. **Levying of differential rate**—(1) So long as differential rating continues in force in the district or, as the case may be, in any ward or special rating area pursuant to section 92A of this Act, the Council, instead of making and levying the rate or rates uniformly over the district as a whole, or, as the case may be, over that ward as a whole or that special rating area as a whole, shall make and levy the rate or rates on the basis or bases determined pursuant to that section of such differential amounts in the dollar as the Council by resolution 25 fixes and determines from year to year.

30 “(2) In any such case, subject to subsection (3) of this section, the maximum of that rate or those rates specified in this Act or any other Act or, in the case of a special rate or special rates, the amount or amounts in the dollar calculated to yield 10 percent more than the annual charges payable in respect of the loan or loans secured by that special rate or those special rates, may be exceeded in respect of any one or more specified types or groups of property or, as the case may be, of property in any one or more specified zones:

40 “Provided that the total amount that would be produced from that rate or those rates in the district or in any ward or special rating area made and levied on a differential basis

shall not exceed the total amount that would be produced if the maximum of that rate or those rates specified in this Act or any other Act, or, in the case of any special rate or rates, the amount in the dollar calculated to yield 10 percent more than the annual charges payable in respect of the loan or loans secured by that special rate or those special rates, were made and levied on a uniform basis on all rateable property in that district or ward or special rating area. 5

“(3) In any district or ward or special rating area in which any rate is levied on a differential basis, the total amount that may be produced by a rate made and levied on all separately rateable property that is— 10

“(a) Farm land, being land that is used exclusively or principally for agricultural or horticultural or pastoral purposes or the keeping of bees or other livestock by an occupier whose income or a substantial part thereof is derived from the use of land for any such purpose or purposes; or 15

“(b) Land used solely or principally for residential purposes and occupied or intended to be occupied exclusively as the home or residence of not more than 2 households, not being part of a rateable property in respect of which an apportionment of rates has been made under section 168 of the Rating Act 1967 and not being a stratum estate within the meaning of the Unit Titles Act 1972— 20 25

shall not exceed the total amount that would be produced if the maximum of the rate specified in this Act or any other Act or the amount in the dollar calculated to yield 10 percent more than the annual charges payable in respect of any loans secured by a special rate were made and levied on a uniform basis on— 30

“(c) Farm land as defined in paragraph (a) of this subsection; or

“(d) Residential land as defined in paragraph (b) of this subsection,— 35  
as the case may be.

“92G. **Application of proceeds of differential rate**—The proceeds of any differential rate made and levied by the Council pursuant to section 92A of this Act shall be applied by the Council as if it were a rate made and levied over the district as a whole or, as the case may be, over the ward as a whole or the special rating area as a whole.” 40



**5. Consequential repeals**—The following enactments are hereby consequentially repealed:

- (a) Section 2 of the Municipal Corporations Amendment Act 1975:
- 5 (b) The Municipal Corporations Amendment (No. 2) Act 1975.

**6. Drainage rate**—Section 103 of the principal Act (as substituted by section 7 (1) of the Municipal Corporations Amendment Act 1968) is hereby amended by adding to sub-  
10 section (5) the words “or the operation, maintenance, and extension of sewage treatment plants forming part of the drainage system of the district”.

**7. Rates of interest**—(1) The principal Act is hereby further amended by inserting in Part X, after section 125, the  
15 following section:

“125A. The Minister of Finance may from time to time, by notice in the *Gazette*, fix the rate of interest payable in respect of money owing to the Council pursuant to section 224 (6) or section 370 (1) of this Act or under an agreement entered  
20 into pursuant to section 229 (2), section 273 (5), section 285 (3), or section 369A (3) of this Act:

“Provided that until that rate of interest is first fixed by the Minister of Finance pursuant to this section the rate of interest for the purpose of the provisions of this Act referred to in this  
25 section shall in each case be 7.5 percent per annum.”

(2) The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

(3) Nothing in section 125A of the principal Act (as inserted by subsection (1) of this section) shall apply with  
30 respect to any money owing to the Council at the passing of this Act pursuant to any of the provisions of the principal Act referred to in that section, and interest shall continue to be payable at the rate payable immediately before the passing of this Act as if subsections (1) and (2) of this section had not  
35 been enacted.

**8. Grazing of livestock on land held by, or under control of, Council**—The principal Act is hereby further amended by repealing section 365, and substituting the following section:

“365. (1) The Council may graze livestock on land vested  
40 in it or under its control, other than scenic or historic reserves

under the Reserves and Domains Act 1953, and for that purpose shall have power to incur expenditure, to purchase livestock, and to sell any such livestock or the progeny of such livestock and the produce thereof.

“(2) The Council shall keep a separate account in connection with the grazing of livestock under this section, to which shall be credited all money received in connection with the sale of any such livestock and the produce thereof and to which shall be debited all expenditure properly chargeable against the account.”

**9. Contracts by Council**—(1) The Fifth Schedule to the principal Act (as amended by section 42 of the Municipal Corporations Amendment Act 1968) is hereby further amended by omitting from the proviso to clause 6 the expression “\$10,000”, and substituting the expression “\$50,000”.

(2) Section 42 of the Municipal Corporations Amendment Act 1968 is hereby consequentially repealed.

**10. Conditions as to stopping of streets**—The Sixth Schedule to the principal Act is hereby amended by revoking clause 8, and substituting the following clause:

“8. The Board or the Court, as the case may be, shall not confirm the decision of the Council unless satisfied that a convenient way to the lands in the vicinity of the street is left or provided.”

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## SCHEDULE

Section 7

## AMENDMENTS OF PROVISIONS OF PRINCIPAL ACT AS TO RATES OF INTEREST

Section Amended	Amendment
Section 224 (6) .....	By omitting the words "and interest at the rate of 6 percent per annum", and substituting the words "and interest at the rate fixed by or pursuant to <u>section 125A</u> of this Act".
Section 229 (2) .....	By omitting the words "interest at a rate not exceeding 6 percent per annum", and substituting the words "interest at the rate fixed by or pursuant to <u>section 125A</u> of this Act".
Section 273 (5) .....	By omitting the words "interest at a rate not less than 4 and not more than 6 percent per annum", and substituting the words "interest at the rate fixed by or pursuant to <u>section 125A</u> of this Act".
Section 285 (3) .....	By omitting the words "interest at a rate not exceeding 6 percent per annum", and substituting the words "interest at the rate fixed by or pursuant to <u>section 125A</u> of this Act".
Section 369A (as inserted by section 3 of the Municipal Corporations Amendment Act 1956)	By omitting from subsection (3) the words "with interest at a rate to be fixed by the Council at the time when the advance is made", and substituting the words "with interest at the rate fixed by or pursuant to <u>section 125A</u> of this Act".
Section 370 (1) .....	By omitting the words "with interest thereon at 6 percent per annum", and substituting the words "with interest thereon at the rate fixed by or pursuant to <u>section 125A</u> of this Act".