

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 16 June 1966

Words struck out by the Local Bills Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 13 October 1966

Words struck out by the Committee of the Whole are shown in italics within double bold round brackets, or with double black rule at beginning and after last line of struck out matter; words inserted are shown with triple rule before first line and after last line of new matter.

Hon. Mr Allen

TOWN AND COUNTRY PLANNING AMENDMENT (No. 2)

ANALYSIS

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A BILL INTITULED

An Act to Amend the Town and Country Planning Act 1953

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

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1. Short Title and commencement—(1) This Act may be cited as the Town and Country Planning Amendment Act (*(No. 2) 1965*) 1966, and shall be read together with and deemed part of the Town and Country Planning Act 1953* (hereinafter referred to as the principal Act).

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(2) This Act shall come into force on the first day of (*April*) January, nineteen hundred and sixty-*(six)* seven.

2. Interpretation—(1) Subsection (1) of section 2 of the principal Act, as amended by section 2 of the Town and Country Planning Amendment Act 1957 and by section 2 of the Town and Country Planning Amendment Act 1963, is hereby further amended—

(a) By inserting, before the definition of the term “amenities”, the following definition:

“ ‘Amend’, in relation to (*a*) any district scheme, 20
means to alter that scheme in consequence of decisions by the Council upon any objection or by the Board upon any appeal; and, in relation to any regional planning scheme, means to alter that scheme in consequence of a decision by the Board upon any appeal; and 25
‘amendment’ has a corresponding meaning:”:

(b) By inserting, after the definition of the said term “amenities”, the following definition: 30

“ ‘Appeal’ includes any objection or application that is submitted to the Board under the authority of this Act or any other Act or any regulation; and ‘appellant’ and ‘respondent’ have corresponding meanings:”:

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*1957 Reprint, Vol. 15, p. 683
Amendments: 1961, No. 130; 1963, No. 43

(c) By inserting, after the definition of the term "Catchment Board", the following definition:

5 " 'Change', in relation to any regional planning scheme or district scheme, includes any (*variation, amendment,*) enlargement, elaboration, modification, (*alteration,*) substitution, or other (*change*) alteration made in the scheme after it becomes operative; but does not include any departure from a district scheme:":

10 (d) By inserting, after the definition of the term "Combined scheme", the following definition:

15 " 'Conditional use', in relation to any land or building in any zone, means any use specified in the operative district scheme as a use that is permitted only if the Council consents and only subject to such conditions as the Council may impose, whether generally or in respect of the particular use or in respect of the particular site:":

20 (e) By inserting, after the definition of the term "Council", the following definition:

25 " 'Departure', in relation to any operative district scheme or proposed district scheme, means an (*exemption from*) exception to any provision of the scheme granted under section 35 of this Act (as inserted by section 35 of the Town and Country Planning Amendment Act (*1965*) 1966):":

30 (f) By repealing the definition of the term "district", and substituting the following definition:

35 " 'District', in relation to any Council or local authority, means the district of that council or local authority; and, in relation to any council, includes any area on or in which any structure, excavation, or other work is situated or proposed to be situated, and any

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40 reclaimed area or area proposed to be reclaimed which adjoins the district and is not included in the district of any other council:":

New

45 reclaimed land or land authorised pursuant to the Harbours Act 1950 or any other Act to be reclaimed, being an area or land which is adjacent to the district and is not included in and does not adjoin the district of any other Council:":

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- (g) By omitting from the definition of the term “district scheme” the words “means a district scheme”, and substituting the words “means a planning scheme”:
- (h) By inserting, after the definition of the term “district scheme”, the following definition: 5
“‘Draft district scheme’, in relation to any area, means any district scheme or section or part of a district scheme which is in course of preparation pursuant to a resolution of the Council in that behalf, but has not become 10 operative or been publicly notified, and of which scheme so much as is or might be affected by any detrimental work has been adopted for the time being by resolution of the Council in committee or otherwise; and 15 includes every matter for which the Minister or a local authority has required provision to be made by subsection (6) or subsection (7) of section 21 of this Act:”:
- (i) By inserting in the definition of the term “highway”, 20 after the word “road”, the words “limited access road”:
- (j) By omitting from the definition of the term “local authority” all words following the words “authorised or declared”: 25
- (k) By repealing the definition of the term “occupier”, and substituting the following definition—
“‘Occupier’ means the inhabitant occupier of any property; and, in relation to any rateable property within the meaning of the Rating 30 Act 1925, includes any occupier of the property within the meaning of that Act:”:

New

- (kk) By inserting, after the definition of the term “operative”, the following definition: 35
“‘Owner’, in relation to any property which is the subject of an application for departure, includes any person who has agreed to purchase that property conditionally upon the departure being granted:” 40

- (l) By inserting, after the definition of the term “public library”, the following definitions:
“‘Public notice’ means (subject to subsection (2) of this section) a notice referring (to the land concerned by its legal description as well as) 45 (where any land is affected) to the land”

affected by a readily identifiable description, being a notice which is published twice with an interval of not less than one week in some one or more newspapers (at least one being a daily newspaper) circulating throughout the area affected by the notice; and 'public notification' and 'publicly notified' have corresponding meanings:

"'Public work' means any public work within the meaning of the Public Works Act 1928:"

(m) By repealing the definition of the term "undisclosed district scheme":

(n) By adding the following definition:

"'Variation', in relation to any district scheme, includes any (*amendment*,) enlargement, elaboration, modification, (*alteration*,) substitution, or other (*change*) alteration made or to be made in the district scheme before it becomes operative; but does not include any departure from the district scheme; and 'vary' has a corresponding meaning."

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

"(2) Where time is to be counted from any public notice, it shall be counted from the last publication in a newspaper that is necessary in accordance with the definition of the term 'public notice' in subsection (1) of this section."

New

(2A) Section 2 of the principal Act (as amended by subsection (7) of section 2 of the Town and Country Planning Amendment Act 1957) is hereby further amended by repealing subsection (5), and substituting the following subsection:

"(5) For the purposes of this Act, the Minister shall be deemed to have and always to have had financial responsibility for—

"(a) Every State highway:

"(b) Every motorway and limited access road under the control of the National Roads Board:

"(c) Every other public work whatsoever, except a local work within the meaning of the Public Works Act 1928."

(3) Every reference in any enactment or document to an undisclosed district scheme shall be read as a reference to a draft district scheme.

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(4) Section 2 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

New

(4) The following enactments are hereby consequentially repealed:

(a) Subsection (7) of section 2 of the Town and Country Planning Amendment Act 1957: 5

(b) Section 2 of the Town and Country Planning Amendment Act 1961.

3. General purpose of regional planning schemes—Subsection (2) of section 3 of the principal Act is hereby amended—

(a) By inserting, after the word “guide” where it first appears, the words “on matters of regional significance referred to in the First Schedule to this Act”:

(b) By inserting, after the word “matters”, the word “properly”. 15

4. Obligation to conform to regional planning scheme and appeals—(1) The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. (1) Every public authority and local authority shall, in the performance of its public duties and functions in respect of matters of regional significance, adhere to the provisions of any regional planning scheme that is operative in its district: 20

“Provided that every local authority affected by a regional planning scheme shall have a right of appeal to the Board at any time against the regional planning scheme so far as there is or would be any conflict between that regional planning scheme and any district scheme. 25

“(2) The Minister shall have a right of appeal to the Board at any time so far as the regional planning scheme in his opinion conflicts with the public interest. 30

New

“(3) In determining any appeal under the foregoing provisions of this section, the Board shall have full regard to the need for co-ordination of district schemes within the region as well as for the co-ordination of works within any district scheme, and shall direct what amendments (if any) shall be made to either or both of the schemes. 35

“(4) The Regional Planning Authority and the Council shall, where necessary in order to comply with any directions given by the Board under subsection (3) of this section, forthwith amend their respective schemes accordingly.” 40

(2) Section 4 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

5. Preparation and approval of regional planning scheme—

(1) Section 6 of the principal Act (as amended by section 5 of the Town and Country Planning Amendment Act 1961) is hereby further amended by inserting in subsection (2), after
5 the words “consist of”, the words “a summary of the comprehensive survey referred to in section 5 of this Act”.

(2) Section 6 of the principal Act is hereby further amended by repealing subsections (1), (4), (5), (6), and (8).

(3) Section 6 of the principal Act is hereby further amended
10 by repealing subsection (7), and substituting the following subsection:

“(7) Any operative regional planning scheme may be (*cancelled or*) changed at any time, and all the provisions of this Act relating to the preparation and approval of regional
15 planning schemes shall apply to every such (*cancellation and*) change.”

(4) Section 5 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

**6. Councils may unite in preparation of regional planning
20 scheme—**Subsection (4) of section 7 of the principal Act is hereby amended—

(a) By omitting the words “a region”, and substituting the words “an existing region or a proposed new region”:

(b) By inserting, after the word “may”, the words “within
25 a period of two years from the date of his recommendation”.

7. Regional Planning Authorities—(1) Section 8 of the principal Act is hereby amended by adding to subsection (4) the words “but shall not continue in office by reason of any
30 appointment after the expiration of three months from the date of the expiration of the current term of office of the members of the said Council or Councils who were in office at the date of the appointment”.

(2) Section 8 of the principal Act is hereby further amended
35 by repealing subsection (7).

8. Functions of Regional Planning Authority in preparation of regional planning scheme—(1) Section 10 of the principal Act (as amended by section 7 of the Town and Country Planning Amendment Act 1957) is hereby further amended
40 by repealing subsections (2), (3), and (4), and substituting the following subsections:

“(2) Every regional planning scheme and every section of a regional planning scheme shall, when the Regional Planning Authority has by resolution recommended it but before

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approval thereof, be submitted by the Regional Planning Authority to—

“(a) The Minister for consideration in conjunction with existing and proposed public works:

“(b) Every Regional Planning Authority whose region is adjacent to the region to which the scheme relates for consideration in conjunction with the operative and proposed regional planning schemes for the adjacent regions, and for approval: 5

“(c) Every local authority whose district is wholly or partly within the region for its approval. 10

“(3) Every public work for which the Minister requires provision to be made shall be provided for in the scheme to the satisfaction of the Minister:

New

15

“Provided that the Regional Planning Authority may appeal to the Board against any such requirement of the Minister within twenty-one days after the date on which it receives the requirement.”

(2) Section 10 of the principal Act is hereby further amended— 20

(a) By omitting from subsection (4A) the words “subsections two, three, and four”, and substituting the expression “subsection (2)”:

(b) By omitting from paragraph (b) of subsection (4A) the words “under any of those subsections”. 25

(3) Section 10 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) Every regional planning scheme and every section of a regional planning scheme shall become operative when it has been approved or is deemed to have been approved by every Regional Planning Authority and local authority to which it must be submitted in accordance with subsection (2) of this section and has been publicly notified.” 35

(4) Section 10 of the principal Act (as amended by section 3 of the Town and Country Planning Amendment Act 1963) is hereby further amended by repealing subsection (6), and substituting the following subsection:

“(6) If any Regional Planning Authority or local authority refuses to approve any regional planning scheme or any section thereof that is submitted for its approval, that Regional Planning Authority or local authority or any other local authority affected thereby, or the Regional Planning Authority which prepared the scheme or section thereof, may appeal to the Board to determine whether any provision to which objection is taken is a desirable one, and (if so) 40 45

whether it should stand part of the scheme or section or be left for inclusion in the relevant district scheme; and, when the decision of the Board has been given, unless the Board otherwise directs, the scheme or section, with such
5 modifications as may be necessary to give effect to the decision of the Board, shall be deemed to have been approved by the Regional Planning Authority or local authority which refused to approve it. Where for six months after the date
10 thereof was submitted for its approval any Regional Planning Authority or local authority fails to appeal to the Board or to inform the Regional Planning Authority which prepared the scheme whether or not it gives or refuses its approval as aforesaid, that Regional Planning Authority or local
15 authority, as the case may be, shall be deemed to have given its approval."

(5) Section 10 of the principal Act is hereby further amended by inserting, after subsection (7), the following subsection:

20 "(7A) Two certified correct copies of every operative regional planning scheme or of every operative section thereof, shall be (*submitted*) sent by the Regional Planning Authority to the Minister. One such copy shall also be (*submitted*) sent
25 by the Regional Planning Authority to every Regional Planning Authority and local authority to which the regional planning scheme must be submitted in accordance with subsection (2) of section 10 of this Act (as inserted by section 8 of the Town and Country Planning Amendment Act (1965) 1966, and shall be made available by the local authority for
30 inspection by the public."

(6) Section 10 of the principal Act is hereby further amended by omitting from subsection (10) the words "notifies the Authority of any additional requirements after he has issued his requirements under subsection two of this
35 section", and substituting the words "or any Regional Planning Authority or local authority notifies the Authority of any requirement".

(7) The following enactments are hereby consequentially repealed:

- 40 (a) Subsections (1) and (2) of section 7 of the Town and Country Planning Amendment Act 1957:
(b) Section 3 of the Town and Country Planning Amendment Act 1963.

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9. Review of regional planning scheme—The principal Act is hereby amended by inserting, after section 10, the following section:

“10A. (1) Every operative regional planning scheme shall be reviewed by the Regional Planning Authority for the region to which it relates from time to time at intervals of not more than ten years. 5

“(2) Every regional planning scheme which is for the time being due for review shall continue to be operative except so far as it is ~~((cancelled or))~~ changed in accordance with this Act. Where any such scheme is changed by the Board on an appeal, the change shall become part of the scheme and shall be operative accordingly.” 10

10. Regional Planning Authority to continue in existence until dissolved—(1) Section 12 of the principal Act is hereby amended by omitting from subsection (1) the words “a majority of the Councils represented thereon”, and substituting the words “by not less than a two-thirds majority of the Councils represented thereon, and confirmed by the Minister”. 15

(2) Section 12 of the principal Act is hereby further amended by adding the following subsection: 20

“(3) Any Regional Planning Authority may act as planning consultant or supply any planning services to any local authority subject to such provision as to payment for services and other matters as may be agreed upon between the Authority and that local authority from time to time.” 25

11. Agreement for execution of combined works—Section 16 of the principal Act (as amended by section 11 of the Town and Country Planning Amendment Act 1957) is hereby further amended by omitting the words “of zoning” in each place where those words appear in subsections (1), (1A), and (1B). 30

Struck Out

12. General purpose of district schemes—Section 18 of the principal Act is hereby amended by adding, as subsection (2), the following subsection: 35

“(2) Every district scheme shall be preceded by a planning data survey of the physical, economic, social, and cultural aspects of the area to which it relates as required by regulations made under this Act.” 40

New

12. Planning data survey—The principal Act is hereby amended by inserting, after section 18, the following section:

5 “18A. Every district scheme, and every review of a district scheme, shall be preceded by a planning data survey of the physical, economic, social, and cultural aspects of the area to which it relates, as required by regulations made under this Act.”

13. Obligation to provide district schemes—(1) Subsection 10 (1) of section 19 of the principal Act is hereby amended—

(a) By inserting, after the word “shall”, the words “not later than the first day of January, nineteen hundred and ~~(seventy)~~ seventy-one”:

(b) By repealing the proviso.

15 (2) Section 19 of the principal Act is hereby further amended by repealing subsection (2).

14. Provision of district schemes by sections—(1) Section 20 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

20 “(1) Subject to the approval of the Minister and to such conditions as the Minister may prescribe, any Council may prepare, recommend, and approve its district scheme by territorial sections, which may relate to the whole of the district or any convenient subdivision thereof. The approval of the 25 Minister and the conditions prescribed by the Minister may be given and prescribed and may be varied from time to time, either generally by notice published in the *Gazette* or specially by notice served on the Council.

30 “(1A) Where the approval of the Minister has been given before the commencement of this subsection to the preparation of a scheme by sections other than territorial sections, the Council may prepare, recommend, and approve its district scheme by such sections as if section 14 of the Town and Country Planning Amendment Act (1965) 1966 had not been 35 passed.”

(2) Section 20 of the principal Act is hereby further amended by repealing subsection (4).

15. Contents of district schemes—(1) Section 21 of the principal Act is hereby amended by repealing subsections 40 (3) and (4).

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(2) Section 21 of the principal Act is hereby further amended by repealing the second proviso to subsection (6) (as added by section 13 (2) of the Town and Country Planning Amendment Act 1957), and substituting the following proviso:

“Provided also that, if the Minister or a local authority fails to inform the Council within six months after the date on which the Minister or the local authority receives a request so to do as to whether or not he or it requires any provision to be made for his or its public works and if so what provision, the Minister or the local authority, as the case may be, shall, for the purposes of this section, be deemed to have no such requirements to make other than the requirements that have been notified under subsection (7) of this section.”

(3) Section 21 of the principal Act is hereby further amended by omitting from subsection (7) the words “either before that subsection can be invoked or while a district scheme for the Council’s district remains due for review”, and substituting the word “and”.

(4) Section 21 of the principal Act is hereby further amended by inserting, after subsection (7), the following subsection:

“(7A) On receipt of any requirement made under subsection (7) of this section, the Council shall publicly notify the requirement for general information; and, where there is an operative district scheme, the public notification shall be at the expense of the Minister or local authority making the requirement.”

(5) Section 21 of the principal Act is hereby further amended by repealing subsections (8) and (9), and substituting the following subsections:

“(8) In any case where, subsequent to the public notification of a district scheme under section 22 of this Act, the Minister or a local authority notifies the Council of any requirement (otherwise than pursuant to subsection (6) of this section), the Council shall formally incorporate that requirement in the district scheme at the next five-yearly review or at such convenient earlier opportunity as may arise in consequence of the hearing or disposal of objections to the scheme or of the Council proceeding of its own volition to vary or change the scheme. Pending the incorporation *(of the)* of any such requirement in the district scheme, no person shall (without the consent of the Minister or local authority making the requirement, which consent may be granted subject to

conditions) construct or make or carry out any structure or excavation or other work, or carry out any subdivision of land, or make any change of use of any land or building that would be contrary to the provisions of the district scheme had the requirement been incorporated in the district scheme immediately the requirement was made. *(except as authorised by the Board on application to it in that behalf.)*

“(9) Where any local authority or other public authority is authorised by any Act to determine the location, within the district of a Council, of the public utilities under its control without the approval of that Council, every such public utility shall be deemed to be a predominant use in every zone in that district:

“Provided that the Council may, within *(twenty-one days)* one month after the date on which it receives advice from the local authority or public authority of the location or proposed location of any such public utility or in the absence of any such advice within three months after the date of the construction of the public utility, appeal to the Board against the location or proposed location of the public utility.”

(6) The following enactments are hereby consequentially repealed:

- (a) Subsection (2) of section 13 of the Town and Country Planning Amendment Act 1957;
- (b) Subsection (2) of section 6 of the Town and Country Planning Amendment Act 1961.

16. Public notification—(1) Section 22 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) As soon as the provisions of section 21 of this Act have been complied with in respect of any district scheme, the Council which prepared the scheme shall publicly notify the place or places at which the scheme has been deposited for inspection.

“(1A) Not earlier than one year before nor later than one month after the date of the completion of the public notification, the Council shall send by post to each person or body whose name for the time being appears in the occupiers' column of the valuation roll for the district of the Council *(general information regarding the district scheme, with advice as to where the scheme may be inspected and as to the rights of objection and appeal conferred by this Act.)*

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New

advice as to where the district scheme may be inspected upon public notification and as to the rights of objection and appeal conferred by this Act:

“Provided that failure by the Council to comply with the provisions of this subsection in relation to any complainant shall not affect the validity of any district scheme or make it necessary for the Council to repeat any procedure unless the failure of the Council was deliberate and resulted in injustice to the complainant.”

(2) Section 22 of the principal Act is hereby further amended by inserting in subsection (2), after the words “the date of”, the words “the completion of”.

(3) Section 22 of the principal Act is hereby further amended by repealing subsections (4) and (5), and substituting the following subsection:

“(4) The Council shall lodge one copy of the scheme with *(the Registrar of the Maori Land Court for each Maori land registration district in which any land affected by the scheme is situated.)* the Registrar for each Maori Land Court district in which is situated any Maori land affected by the scheme.”

17. Variation of proposed district scheme—The principal Act is hereby amended by inserting, after section 22, the following section:

“22A. (1) If for any reason, other than to give effect to a decision of the Board or to meet objections that have been heard by the Council or a committee of the Council in accordance with section 25 of this Act, the Council wishes to vary the proposed district scheme, the Council shall publicly notify the nature of the variation and the place or places which the scheme has been deposited for inspection.

New

“(1A) Not later than two weeks after the date of the completion of the public notification, the Council shall send by post, to such of those persons or bodies whose names for the time being appear in the occupiers’ column of the valuation roll for the district of the Council as in the opinion of the Council are likely to be materially affected by the variation, advice as to where the scheme may be inspected and as to the rights of objection and appeal conferred by this Act:

New

“Provided that failure by the Council to comply with the provisions of this subsection in relation to any complainant shall not affect the validity of any district scheme or make it necessary for the Council to repeat any procedure unless the failure of the Council was deliberate and resulted in injustice to the complainant.”

“(2) Every such public notification shall call for objections to be lodged at the office of the Council, and shall specify the last date on which any such objections may be received, which date shall not be earlier than six weeks after the date of the completion of the public notification.”

“(3) Not later than the date of the completion of the public notification, the Council shall forward copies of the proposed variations to the Minister, the Regional Planning Authority, and every local authority having jurisdiction within the district, and to the Council for every adjoining district which has any community of interest in any matter that could be affected by the proposed variations.”

18. **Objections by owners**—Section 23 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Not later than one month before the date of the commencement of the hearing of the objections, the Council shall publish in a daily newspaper circulating in its district a notice of the date of the commencement of the hearing of the objections, with a summary of the subject matters of the objections received and an invitation to any persons who wish to be heard in support of or opposition to any objection to notify the Council in writing of their wish to be heard at least ten days before the date of the commencement of the hearing of the objections, and shall post to each objector a notice of that date.”

19. **Hearing of objections**—Section 25 of the principal Act is hereby amended by repealing subsection (4).

20. **Appeals**—(1) Section 26 of the principal Act (as amended by section 15 of the Town and Country Planning Amendment Act 1957) is hereby further amended by omitting from subsection (2A) the words “three months after receiving

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that requirement”, and substituting the words “two months from the date of the receipt by the Minister or the local authority of the Council’s request for a variation of that requirement”.

(2) Section 26 of the principal Act (as amended by section 15 (2) of the Town and Country Planning Amendment Act 1957) is hereby further amended by repealing subsection (3), and substituting the following subsection:

New

“(3) Any person whose application for consent under subsection (8) of section 21 of this Act (as amended by section 15 (5) of the Town and Country Planning Amendment Act 1966) is refused by the Minister or local authority making the requirement, or is granted subject to conditions, may, within twenty-one days after the date on which the consent is refused or within twenty-one days after the date on which the consent is granted subject to conditions, appeal to the Board against the refusal of consent or against any of the conditions subject to which consent was granted.”

(3) The Town and Country Planning Amendment Act 1957 is hereby consequentially amended by repealing subsection (2) of section 15.

21. Amendment of scheme to give effect to objections and appeals—The principal Act is hereby amended by inserting, after section 26, the following section:

“26A. When all appeals under section 26 of this Act have been determined—

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the Council shall, without further formality or notice or other proceedings, amend the district scheme so far as is necessary to give effect to the decisions of the Council as to objections and of the Board as to appeals.”

New

“(a) The Council shall, without further formality or notice or other proceedings, amend the district scheme so far as is necessary to give effect to the decisions of the Council as to objections and of the Board as to appeals; and

“(b) The Regional Planning Authority shall, if so directed by the Board, amend the regional planning scheme as so directed.”

22. **Approval of district scheme**—(1) Section 28 of the principal Act (as amended by sections 16 and 17 of the Town and Country Planning Amendment Act 1957) is hereby further amended—

- 5 (a) By omitting from subsection (1) the words “section twenty-two”, and substituting the expression “section 22A”:
- (b) By inserting in subsection (2), after the words “the date of”, the words “the completion of”:
- 10 (c) By omitting from paragraph (a) of subsection (3) the words, “each public library and branch thereof within the area to which the scheme relates”, and substituting the words, “such other place or places as the Council determines”:
- 15 (d) By omitting from subsection (4) the words “paragraphs (b) and”, and substituting the word “paragraph”.

(2) Section 28 of the principal Act is hereby further amended by repealing paragraphs (c) and (d) of subsection (3), and substituting the following (*paragraph*) paragraphs:

- 20 “(c) One such copy shall be lodged with every local authority having jurisdiction within the district of the Council, and with the Council for every adjoining district which has any community of interest with the district in any matter that could
- 25 be affected by the scheme:

New

“(d) One such copy shall be lodged with the Branch Manager of the Valuation Department in whose district the land affected by the scheme is situated.”.

30 **23. Application of district scheme following boundary alteration and amalgamation**—The principal Act is hereby amended by inserting, after section 28A (as inserted by section 17 (2) of the Town and Country Planning Amendment Act 1957), the following section:

35 “28B. (1) Where the boundaries of any district are altered so as to take the whole or any part of any area for which a district scheme has been prepared out of the control of the Council which prepared it,—

40 “(a) If the scheme is operative, it shall remain operative for the whole of the area to which it related immediately before the alteration of the boundaries; and, in respect of the part of the area

18 *Town and Country Planning Amendment (No. 2)*

which on the alteration of the boundaries came under the control of another Council, it shall be deemed to have been provided by that Council:

“Provided that the Councils which control the parts of the area shall, as soon as practicable, make such changes to the scheme as they consider necessary in consequence of the alteration of the boundaries: 5

“(b) If the scheme is not operative, it may be completed and made operative in respect of the part of the area which remains under the control of the Council which prepared the scheme; but it shall be necessary for the Council to which control of the other part of the area has passed to start afresh in preparing and providing a district scheme for that part of the area. 10 15

“(2) Where two or more Councils are united or a new Council is created, any existing draft, proposed, or operative district schemes shall be administered by the new Council which shall, unless otherwise directed by the Governor-General in the Order in Council issued under section 23 of the Local Government Commission Act 1961, forthwith proceed to prepare a new district scheme for the whole of its district.” 20

24. Conditional uses—The principal Act is hereby amended by inserting, after the said section 28B, the following section: 25

“28c. (1) Application to the Council for its consent to a conditional use shall be made in accordance with regulations made under this Act notwithstanding anything to the contrary regarding procedure in the operative district scheme.”

“(2) The Minister and every person who or body which claims to be affected by the application shall have the right to object to the Council against the application being granted, and to be heard by the Council when it considers the application. 30

“(3) After the application and all objections have been considered, the Council may *(determine the conditions to which that use, if permitted, shall be subject.)* allow or refuse the application; and in allowing the application may impose such conditions, restrictions, and prohibitions as it thinks fit. 35 40

New

“ (4) Any consent given under this section shall lapse after the expiration of a period of two years from the date when the consent was given, unless the applicant, within that period, has established the use of the land or buildings to which the consent relates for the purpose for which the consent was given or, in the opinion of the Council, is continuing to make substantial progress towards establishing that use.”

25. Appeals in respect of conditional uses—The principal Act is hereby amended by inserting, after the said section 28c, the following section:

“28d. (1) Where the Council refuses to consent to any application for consent to a conditional use of any land or building, or consents to any such application subject to any (special) conditions, restrictions, or prohibitions, the applicant for that consent may, within twenty-one days after the date on which the Council refuses its consent or within twenty-one days after the date on which the Council grants its consent subject to any such (special) conditions, restrictions, or prohibitions, appeal to the Board against the refusal of the consent or against any of the (special) conditions, restrictions, or prohibitions imposed by the Council in granting its consent.

“ (2) Any objector may, within twenty-one days after the date on which the consent is granted by the Council, appeal to the Board against the granting of the consent.”

26. Changes or cancellation of operative district schemes—The principal Act is hereby amended by repealing section 29, and substituting the following section:

“29. (1) Any Council may, in accordance with the provisions of this Act, from time to time change any operative district scheme, or, by the substitution of another operative district scheme, cancel any operative district scheme.

“ (2) Where any change is proposed in respect of a district scheme while it is due for review under section 30 of this Act, the matter shall be dealt with wholly under that section as part of the review.”

27. District schemes to be reviewed every five years—

(1) The principal Act is hereby amended by repealing section 30, and substituting the following section:

“30. (1) Any operative district scheme may at any time and from time to time be reviewed by the Council.

“(2) Every district scheme shall from time to time become due for review, and shall forthwith be reviewed by the Council, as soon as any provision thereof has been operative under this Act for five years without confirmation (*under this section*) in accordance with section 30A of this Act (as inserted by section 28 of the Town and Country Planning Amendment Act 1966) and without change. Every such scheme shall remain due for review until it has been confirmed (*under this section*) as aforesaid or until its provisions have sooner ceased to be operative or have been changed.

“(3) If at any time any district scheme is due for review and has been continuously due for review for a period of more than one year immediately preceding that time, the Minister, every person, every local authority having jurisdiction in or adjacent to the area to which the district scheme relates, every Regional Planning Authority and joint committee having jurisdiction in or adjacent to that area, and every organisation or society of persons engaged in any profession, calling, or business, or of persons associated with the promotion of any sport or recreation, or associated for any other purpose of public benefit or utility shall have the same rights to object to the scheme and to be heard in support of or opposition to objections, and to appeal, as he or it would have if the scheme had not been made operative but had been publicly notified in accordance with section 22 of this Act:

“Provided that no objection to the existing operative district scheme may be made after the date of public notification of the review of the scheme in accordance with section 22 of this Act:

“Provided also that any objection to the existing operative district scheme shall be deemed to be an objection to the proposed review of the scheme.

“(4) Where a review of the district scheme has not been publicly notified in accordance with section 22 of this Act, and the Council has failed to give a decision on any objection lodged in accordance with this section for six months after the date on which that objection is lodged, the objection shall be deemed to be disallowed, and the objector and any person who supports or opposes the objection shall have a right of appeal to the Board in accordance with sections 23 and 26 of this Act. If the Council fails for six months after allowing any such objection to incorporate in the scheme the allowed objection, the objector shall have the right to appeal to the Board to have the scheme changed accordingly.

“**(5)** Every district scheme which is for the time being due for review shall continue to be operative except so far as it is cancelled or changed by the Council in accordance with this Act or amended by the Board. Where any such scheme
5 is amended by the Board, the amendment shall become part of the scheme and shall be operative accordingly.”

(2) The following enactments are hereby consequentially repealed:

- 10 **(a)** Subsection (1) of section 18 of the Town and Country Planning Amendment Act 1957:
 (b) Section 10 of the Town and Country Planning Amendment Act 1961.

28. Procedure in respect of changes and reviews of operative district schemes—**(1)** The principal Act is hereby amended
15 by repealing section 30A (as inserted by section 18 of the Town and Country Planning Amendment Act 1957), and substituting the following section:

“**30A. (1)** Where the Council desires to change or review an operative district scheme under section 29 or section 30
20 of this Act, it shall, subject to the provisions of subsection (4) of this section, follow the procedure specified for preparation, recommendation, and approval of a district scheme, commencing at the point where (under section 21 of this Act) the scheme is ready for recommendation by
25 resolution of the Council.

“**(2)** For the purpose of making any change or review, the Council shall publicly notify:

- “**(a)** The proposed new district scheme; or
30 “**(b)** The existing operative district scheme with details of the changes shown separately; or
“**(c)** The existing operative district scheme unchanged.

“**(3)** Every public work for which the Minister or any local authority having jurisdiction within the district has financial responsibility and requires provision to be made
35 at that time shall be provided for to his or its satisfaction.

“**(4)** Subsections (5) and (6) of section 21 of this Act and subsection (2) of section 22 of this Act shall not apply to any change or review to which this section applies, but, in addition to those provisions of this Act and any regulations
40 made thereunder which are otherwise applicable by virtue of the provisions of subsection (1) of this section, the following provisions shall apply to any such change or review:

22 *Town and Country Planning Amendment (No. 2)*

“(a) After every change or review of an operative district scheme has been recommended by resolution of the Council, the Council shall—

“(i) Not later than the date of the completion of the public notification, forward copies of the proposed changes, or the proposed new district scheme, to the Minister and the Regional Planning Authority, and to every local authority having jurisdiction within the district, and to the Council for every adjoining district which has any community of interest in any matter that could be affected by the proposed changes: 5 10

“(ii) Publicly notify the place or places at which the proposed new district scheme, or the existing operative district scheme with details of changes shown separately, or the existing operative district scheme unchanged, has been deposited for inspection: 15

“(iii) Not earlier than one year before nor later than one month after the date of the completion of the public notification, where the scheme is being reviewed, send to each person or body whose name for the time being appears in the occupiers' column of the valuation roll for the district of the Council *(and (where the scheme is being changed) to such of those persons or bodies as in the opinion of the Council are likely to be affected, general information regarding the review or changes, as appropriate, with)* or (where the scheme is being changed) send to such of those persons and bodies as in the opinion of the Council are likely to be materially affected advice as to the place or places of inspection referred to in subparagraph (ii) of this paragraph and as to the rights of objection and appeal conferred by this Act: 20 25 30 35

New

“Provided that failure by the Council to comply with the provisions of this subparagraph in relation to any complainant shall not affect the validity of any district scheme or make it necessary for the Council to repeat any procedure unless the failure of the Council was deliberate and resulted in injustice to the complainant: 40

5 “(b) Every public notification referred to in subparagraph
(ii) of paragraph (a) of this subsection in respect
of a review under section 30 of this Act shall call
for objections to any provision of the proposed
new district scheme, whether or not the provision
is the same as that included in the operative
district scheme, to be lodged at the office of the
Council, and shall specify the last date on which
10 any such objections may be received, which date
shall not be earlier than six weeks after the date
of the completion of the public notification:

15 “(c) Every public notification referred to in subparagraph
(ii) of paragraph (a) of this section in respect
of a change under section 29 of this Act shall call
for objections to the proposed change only to be
lodged at the office of the Council, and shall
specify the last date on which any such objections
may be received, which date shall not be earlier
than six weeks after the date of the completion
20 of the public notification:

25 “(d) If before the last date by which objections may be
received in accordance with the public notification
referred to in paragraph (b) or paragraph (c)
of this subsection, the Minister, (*the Regional
Planning Authority*), or any local authority having
jurisdiction within the district serves on the
Council a notice that it desires a deferment, the
Council shall defer its publication of the notice of
the date of the hearing and the summary of the
subject matters of the objections referred to in
30 subsection (2) of section 23 of this Act until their
respective requirements have been made:

35 “Provided that the period of any deferment
sought by the Minister, (*the Regional Planning
Authority*), or any local authority shall not exceed
six months:

40 “(e) Where the Minister or any local authority makes a
requirement under this section in respect of a
public work, the provisions of subsections (2) and
(3) of section 23 of this Act relating to objections
shall apply to that requirement as if it were an
objection.

24 *Town and Country Planning Amendment (No. 2)*

“(5) Where action is being taken towards confirmation of an existing operative district scheme without change, a memorandum to that effect signed by the Clerk of the Council may be embodied in any notice of the scheme, or submitted or supplied to any person or body, in place of a statement of the scheme or copy of the scheme that would otherwise be required by this Act to be embodied in the notice or submitted or supplied to that person or body. 5

“(6) Where action is being taken towards confirmation of an existing operative district scheme with any change, or towards the changing of an operative district scheme which is not due for review, notice of details of the changes proposed to be made in the existing operative district scheme may be given in place of notice of the scheme, or submitted or supplied instead of submitting or supplying copies of the scheme, whenever that would otherwise be required under the provisions of this Act. 10 15

“(7) Particulars of every confirmation of, and of all changes made to, any district scheme shall be endorsed on or included in the copy of the scheme which is available for convenient public inspection at the office of the Council, and written notice of the confirmation or of the details of the changes shall be lodged at the places where, and with the officials with whom, the scheme is required to be lodged under subsection (3) of section 28 of this Act.” 20 25

(2) The following enactments are hereby consequentially repealed:

(a) Subsection (2) of section 18 of the Town and Country Planning Amendment Act 1957:

(b) Section 11 of the Town and Country Planning Amendment Act 1961. 30

29. Works contrary to proposed change prohibited—Section 30B of the principal Act (as inserted by section 12 of the Town and Country Planning Amendment Act 1961) is hereby amended by omitting from subsection (1) the words, “subsection (1) of section 22 of this Act”, and substituting the words, “subparagraph (ii) of paragraph (a) of subsection (4) of section 30A of this Act (as inserted by section 28 of the Town and Country Planning Amendment Act (1965) 1966””. 35

30. Failure to provide an operative district scheme—The principal Act is hereby amended by repealing section 32, and substituting the following section: 40

“32. (1) Where any Council has not complied with the requirement of this Act to provide by the first day of January, nineteen hundred and (*seventy*) seventy-one, an operative district scheme in respect of all land within its district, the
5 Minister shall take such steps as he may consider necessary to have such a district scheme made operative as quickly as possible, and for that purpose may employ planning consultants and such other persons as may be required.

“ (2) When the Minister has caused the district scheme to
10 be prepared, it shall be submitted to the Council for approval. The Minister may take all or any of the steps prescribed by this Act and any regulations under this Act to enable a scheme to be approved; and if the Council fails or neglects to approve the scheme, the Minister may declare it to be approved and
15 publicly notify the approval with the like effect as if he were the Council.

“ (3) All costs, charges, and expenses incurred by the Minister in the exercise of any of the powers conferred on him by or under this section shall be recoverable from the
20 Council as a debt due to the Crown or may be deducted from any money payable by the Crown to the Council.”

31. Operation of district schemes—(1) Section 33 of the principal Act (as substituted by section 19 of the Town and Country Planning Amendment Act 1957) is hereby amended
25 by omitting from subsection (2) the words “Except as provided in sections twenty-eight A and thirty-five”, and substituting the words “Except as provided in subsection (9) of section 21 and sections 28A and 35”.

(2) The said section 33 of the principal Act is hereby further
30 amended by repealing subsections (4) and (5), and substituting the following subsections:

“ (4) Except as provided in section 30B of this Act or as authorised by a departure, no plan of subdivision of land shall be accepted by any District Land Registrar for deposit unless
35 the Council has certified on the plan of subdivision that it complies with the requirements and provisions, as they stand at the time of that approval, of every operative district scheme relating to the area in which the land is situated.

“ (5) Notwithstanding the foregoing provisions of this section,
40 a Council may, with the agreement of the owners of the lands directly affected, vary the position shown on the scheme of any proposed highway, or the location or shape shown on the scheme of any proposed reserve, so long as the intention

of the scheme in that respect is secured, and in any such case the Council shall not be required to comply with any other provision of this Act in respect of changes of or departures from the scheme:

“Provided that no such variation shall be made in respect of a proposed highway or reserve for which the Minister or a local authority will have financial responsibility, without the consent of the Minister or the local authority concerned.”

32. Effect of designating land (for public works or reserves)—(1) The principal Act is hereby amended by repealing section 33A (as inserted by section 13 of the Town and Country Planning Amendment Act 1961), and substituting the following section:

“33A. (1) Land designated for an existing (or proposed) public work (or reserve) (other than a highway) or for a proposed public work, and land designated for any other existing or proposed purpose in a draft district scheme shall be zoned in that district scheme; and land which is so designated in a proposed or an operative district scheme, if not already zoned, shall be zoned not later than at the next five-yearly review of that scheme; but in either case the zoning shall not have effect in respect of the construction, execution, (establishment, constitution, and undertaking of the public work or reserve designated or the use of the land for the public work or reserve designated.) or operation of the public work designated.

“(2) Where any land designated for an existing or proposed public work (or reserve) is not zoned, and the Minister, local authority, or Council having financial responsibility for the public work (or reserve) certifies that the land is not required for the existing or proposed public work (or reserve) for which the land is designated, the land no longer so required shall, unless it is required for some other existing or proposed public work (or reserve), be included in such zone as the Council shall determine.

“(3) Particulars of any such determination shall be publicly notified by the Council, which shall serve such particulars on the owners and occupiers of the land no longer so required and on the occupiers of all property in the vicinity who in the opinion of the Council may be affected by the zoning.

“(4) The owners and occupiers of the land no longer so required, and every person who claims to be affected by the zoning under subsection (2) of this section, may appeal to

the Board against the determination of the Council within twenty-one days after the date of the completion of the public notification of the determination of the zoning.

- “(5) Where any land is designated in an operative district scheme for a proposed public work (*or a proposed reserve*), the subdivision of that land or the carrying out of any work thereon (including the making of any structure or excavation), whether public or private, shall not be allowed without the consent of the Minister, local authority, or Council having financial responsibility for the proposed public work (*or reserve*). Any such consent may be issued subject to any conditions that the Minister, local authority, or Council having financial responsibility as aforesaid may think fit to impose.

New

- “(6) Where any land is designated in an operative district scheme for any purpose other than a public work or a proposed public work, the subdivision of that land or the carrying out of any work thereon (including the making of any structure or excavation) or the use of that land for any other purpose which is inconsistent with the designated purpose shall, in the absence of anything to the contrary in the district scheme, be deemed to be a conditional use of the land.”

(2) Section 13 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

- 33. Road and street widths**—(1) The principal Act is hereby amended by repealing section 34, and substituting the following section:

- “34. (1) The provisions of any Act as to the minimum width of roads and streets giving access to land that is sold or subdivided into allotments for the purpose of sale shall be deemed not to be contravened if they are of the minimum width specified in an operative district scheme; and accordingly an owner may sell any part of his land or subdivide his land for the purpose of sale without having to comply with any conditions (other than conditions as to building lines) imposed by any such provisions if the land being sold or each lot in the subdivision has a frontage to any road or street having such a minimum width:

- “Provided that no such road or street shall be of less width than forty feet.

“(2) Any district scheme may provide for the cancellation, as from the time when the district scheme becomes operative and with or without substitution of any provision under this Act, of any condition with respect to building line or any similar condition or restriction imposed under any Act; and the title to any land affected shall be noted accordingly by the District Land Registrar on application by the Council or by any person having an estate or interest in the land affected.” 5

(2) The Counties Amendment Act 1961 is hereby consequentially amended by repealing so much of the Second Schedule as relates to the Town and Country Planning Act 1953. 10

34. Duty to keep objectionable elements in connection with certain uses of land to a minimum—(1) Section 34A of the principal Act (as inserted by section 21 of the Town and Country Planning Amendment Act 1957) is hereby amended by omitting from subsection (3) the words “such action as is specified in the notice (being a means reasonably available to that person) to remove or reduce that objectionable element”, and substituting the words “action to remove or reduce to the extent specified that objectionable element, which notice may require the removal of any building or structure comprising an objectionable element. A copy of every such notice shall also be served on the owner of the land or building the subject of the notice if the owner is not the person making the use which has any objectionable element”. 15 20 25

(2) Section 34A of the principal Act is hereby further amended by inserting in subsection (4), after the words “any such notice”, the words “or a copy thereof”.

(3) Section 34A of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection: 30

“(5) If after the time specified in the notice the person on whom the notice or a copy thereof was served makes that use of the land or building or permits or suffers that use of the land or building to be made by any other person without giving full effect to that requirement, that person commits an offence against this Act unless he proves to the satisfaction of the Court that any such use of the land or building as aforesaid was made in circumstances under which he could have no knowledge of that use, or that having such knowledge he took all reasonably practicable steps to prevent any such use of the land or building.” 35 40

(4) Section 34A of the principal Act is hereby further amended by omitting from subsection (6) the words “(where the matter is within the jurisdiction of a Magistrate’s Court)”, and substituting the words “(where the capital value as appearing in the district valuation roll of the property concerned does not exceed *(seven) ten thousand pounds)*”.

(5) Section 34A of the principal Act is hereby further amended by repealing subsections (7) and (8).

10 **35. Departure from district scheme**—(1) The principal Act is hereby amended by repealing section 35, and substituting the following section:

15 “35. (1) Notwithstanding the provisions of section 33 of this Act, the Minister, any local authority or public authority, or the owner or occupier of the land concerned, may apply to the Council in accordance with this section and with regulations made under this Act to grant *(exemption from) an exception* to any provision of an operative district scheme or a proposed district scheme by consenting to a specified departure.

20 “(2) The Council may consent to such a specified departure only where—

25 “(a) The effect of the departure *(upon the amenities of the neighbourhood will not extend) will have little significance* beyond the immediate vicinity of the property in respect of which the departure is sought, and the district scheme can properly remain without change or variation; or

30 “(b) The departure is in respect of a matter for which the Council has resolved to bring down a change or variation to the scheme, but which is of such urgency as to warrant its immediate authorisation without waiting the time involved in completing the change or variation.

35 “(3) The consent of the Council hereunder may be granted unconditionally or subject to such conditions as the Council thinks fit.

“(4) In the granting or refusal of any consent to a specified departure, the public interest shall be the paramount consideration.

40 “(5) The Minister, and every Regional Planning Authority and local authority having jurisdiction in or adjacent to the area to which the application for consent to the departure relates, and every person who or body that claims to be

30 *Town and Country Planning Amendment (No. 2)*

affected by the application, shall have the right to object to the Council against the application being granted and to be heard by the Council when it considers the application.

“(6) The applicant and the Minister and any person, authority, or body who or that objected to the Council against the application for consent to the specified departure may, within twenty-one days after the date on which the Council consents to or refuses to grant the departure, appeal to the Board against that decision. 5

Struck Out 10

“(7) Except where in the opinion of the Board special circumstances so warrant, the Board, in deciding any appeal under this section, shall observe the principles set out in subsection (2) of this section.”

New 15

“(7) In deciding any appeal under this section, the Board shall observe the principles specified in subsection (2) of this section, unless for reasons to be specified by the Board some dispensation from those principles is considered by the Board to be warranted in the public interest.” 20

(2) The following enactments are hereby consequentially repealed:

- (a) Subsection (1) of section 22 of the Town and Country Planning Amendment Act 1957:
- (b) Section 14 of the Town and Country Planning Amendment Act 1961: 25
- (c) Section 8 of the Town and Country Planning Amendment Act 1963.

36. Provision for parking—Section 35A of the principal Act (as inserted by section 23 of the Town and Country Planning Amendment Act 1957) is hereby amended by repealing the proviso to subsection (1). 30

37. Offences and penalties in respect of failure to comply with district scheme—(1) Section 36 of the principal Act is hereby amended by omitting from the proviso to subsection (1) the words “came into force”, and substituting the words “became operative”. 35

(2) Section 36 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection: 40

“(2) Subject to the provisions of this section, any person who, after a district scheme has become operative, uses any buildings or land in a manner not in conformity with the scheme commits an offence against this Act.”

5 (3) Section 36 of the principal Act is hereby further amended by omitting from subsection (3) the words “(where the matter is within the jurisdiction of a Magistrate’s Court)”, and substituting the words “(where the capital value as appearing in the district valuation roll of the
10 property concerned does not exceed (*seven*) ten thousand pounds”.

38. Additional powers for enforcement of district schemes and decisions of Board—(1) Section 37 of the principal Act (as amended by section 15 of the Town and Country Planning
15 Amendment Act 1961) is hereby further amended—

(a) By inserting in subsection (3), after the words “of the scheme”, the words “or any relevant decision of the Board”:

20 (b) By omitting from subsection (3) the words “(where the matter is within the jurisdiction of a Magistrate’s Court)”, and substituting the words “(where the capital value as appearing in the district valuation roll of the property concerned does not exceed
25 (*seven*) ten thousand pounds, or where the value of the material or thing placed on the land does not exceed one thousand pounds):”

(c) By omitting from subsection (5) (as amended by section 15 of the Town and Country Planning Amendment Act 1961) the words “or (where the matter is within
30 the jurisdiction of a Magistrate’s Court) to a Magistrate’s Court”, and substituting the words “or (where the capital value as appearing in the district valuation roll of the property concerned does not exceed (*seven*) ten thousand pounds, or where the
35 value of the material or thing placed on the land does not exceed one thousand pounds) to a Magistrate’s Court”:

(d) By omitting from subsection (6) the words “and that the consent of the Council was not obtained under
40 section 35 of this Act”:

(e) By adding to the proviso to subsection (6) the words, “and make such order as it thinks fit”:

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(f) By omitting from subsection (10) the words “a Magistrate”, and also the words “the Magistrate” in each place where they appear, and substituting in each case the words “the Court”.

(2) The said section 37 of the principal Act is hereby further amended by inserting, after subsection (7), the following subsection: 5

“(7A) If at any time any money is due to the Council in respect of expenses incurred in accordance with the provisions of subsection (7) of this section, the Council may, on payment of a fee of ten shillings, deposit with the District Land Registrar or the Registrar of Deeds, as the case may be, in the land registration district in which the land is situated a certificate signed on behalf of the Council describing the land and specifying the amount due and unpaid, and the Registrar shall thereupon register the certificate in respect of that land, and the money specified in the certificate shall until payment be a charge on the land. The charge shall be deemed to have been created at the time of the registration of the certificate, and that registration shall be deemed to be registration of the charge for the purposes of the Statutory Land Charges Registration Act 1928.” 10 15 20

(3) Section 15 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

39. Building, subdivision, etc., may be prohibited if likely to contravene a draft or proposed district scheme—(1) Section 38 of the principal Act (as amended by section 25 of the Town and Country Planning Amendment Act 1957 and by section 16 of the Town and Country Planning Amendment Act 1961) is hereby further amended— 25 30

(a) By inserting, after the words, “other work” in each place where they appear in paragraphs (a) and (b) of subsection (1), the words “whether public or private”:

(b) By omitting the word “undisclosed” in each place where it appears in paragraphs (a), (b), and (c) of subsection (1), and substituting in each case the word “draft”:

(c) By repealing subsection (3).

(2) Section 38 of the principal Act, as so amended, is hereby further amended by repealing paragraph (d) of subsection (1), and substituting the following paragraph: 35 40

“(d) Any subdivision of land, structure, excavation, or other work, whether public or private, that would or might adversely affect any existing or proposed public work, or the construction, execution, establishment, constitution, or undertaking thereof.”

5 (3) Section 38 of the principal Act, as so amended, is hereby further amended by repealing subsection (5), and substituting the following subsection:

10 “(5) No refusal or prohibition under this section shall have any effect after the district scheme has become operative for the area to which the refusal or prohibition relates.”

(4) Section 38 of the principal Act, as so amended, is hereby further amended by repealing subsections (8), (9), ~~(and (10),)~~ 10, and (11), and substituting the following

15 subsection:

“(8) Any person injuriously affected by any refusal or prohibition of a Council under this section may, within twenty-one days after the date on which he receives notice of the refusal or prohibition, appeal to the Board.”

20 (5) Section 38 of the principal Act, as so amended, is hereby further amended by repealing subsection (13), and substituting the following subsection:

“(13) If application is made to the Council or any local authority in respect of any action proposed to be taken by the applicant that would or might be detrimental work within the meaning of subsection (1) of this section in relation to any existing or proposed public work, or that would or might adversely affect any such existing or proposed public work, the Council or local authority shall forthwith notify the

30 Minister (through the District Commissioner of Works) or the Council or the local authority responsible for the existing or proposed public work of the nature of the proposed action and of the names and addresses of the persons proposing to undertake it so far as the Council or local authority has the information on record. Until the expiration of two months after the date of the giving of the notification aforesaid, the Council or local authority shall not consent to any such action being taken by the applicant without first obtaining the consent of the Minister, Council, or local authority responsible

40 for the work.”

(6) Paragraph (c) of subsection (1) of section 16 of the Town and Country Planning Amendment Act 1961 is hereby consequentially repealed.

34 *Town and Country Planning Amendment (No. 2)*

40. Control of change of use of land—(1) Section 38A of the principal Act (as inserted by section 26 of the Town and Country Planning Amendment Act 1957 and amended by section 9 of the Town and Country Planning Amendment Act 1963) is hereby further amended by repealing subsection (2), and substituting the following subsection: 5

New

“(2) Application under this section to the Council for consent shall be made in accordance with regulations made under this Act.” 10

(2) The said section 38A of the principal Act, as so amended, is hereby further amended by omitting from subsection (3) the word “fourteen”, and substituting the word “twenty-one”.

(3) The said section 38A of the principal Act, as so amended, is hereby further amended by adding the following subsection: 15

“(6) In consenting to the use of any land or building under this section, the Council may impose such conditions, restrictions, or prohibitions as it thinks fit.” 20

(4) Paragraph (b) of section 9 of the Town and Country Planning Amendment Act 1963 is hereby consequentially repealed.

41. Constitution of Town and Country Planning Appeal Board and Special Appeal Board—Section 39 of the principal Act is hereby amended by inserting, after the word “Minister” in each place where it appears in subsections (3), (6), and (7), the words “of Justice”. 25

New

(2) Section 39A of the principal Act (as inserted by section 10 of the Town and Country Planning Amendment Act 1963) is hereby amended by inserting, after the word “Minister” in each place where it appears in subsections (3) and (4), the words “of Justice”. 30

42. Power of Board to waive certain requirements—Section 40 of the principal Act is hereby amended by adding the following subsection: 35

“(9) The Board, on application to it in that behalf, may waive compliance with any requirement of this Act or of any regulations made under this Act as to the time or method of serving documents (other than the time for lodging appeals 5 in cases where the parties concerned do not consent to the waiver), and as to the documents to be served and the persons on whom any documents are to be served, if it is satisfied that no party to the proceedings will be prejudiced by the waiver.”

10 **43. Determination and review of appeals**—(1) Section 42 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) On the hearing of any appeal the Board may (*vary, change, or cancel the district scheme or the regional planning 15 scheme or*) direct what amendments shall be made to the district scheme or the regional planning scheme, or may amend or cancel any decision or determination to which the appeal relates, or may confirm both or either of those schemes or any such decision or determination, and may make any such order 20 either absolutely or subject to such conditions, restrictions, prohibitions, and modifications as the Board thinks just; and the decision of the Board shall be final and conclusive.

“(3A) Where on hearing any appeal the Board considers that a reasonable case has been presented for (*varying, 25 changing,*) amending or cancelling any provision of a district or regional planning scheme or any decision or determination to which the appeal relates and that opportunity should be given to all interested parties to consider the proposed (*variation, change*) amendment or cancellation, it may reserve its 30 decision, and—

“(a) Indicate the nature of the (*variation, change,*) amendment or cancellation proposed:

“(b) Indicate the manner in which those who wish to object may do so:

35 “(c) Fix a day on which those objecting may be heard in respect of their objections:

36 *Town and Country Planning Amendment (No. 2)*

“(d) Require the Council to give public notice of any
(*variation, change,*) amendment or cancellation
proposed and of the opportunities being given to
object and be heard.”

(2) Section 42 of the principal Act is hereby further 5
amended by adding the following subsection:

“(5) Where, after any decision has been given by the
Board in respect of any appeal under this Act, new and
important evidence becomes available or there has been a
change of circumstances that in either case might have 10
affected the decision, any party may apply to the Board for
a review of the decision. In any such case the Board, after
notice to the other parties concerned and after hearing such
evidence as it thinks fit, shall determine whether and (if so) 15
on what conditions the decision should be reviewed, and
may if it thinks fit review the decision. The decision of the
Board on any such review shall have the same effect as a
decision of the Board on an appeal.”

**44. Power to withdraw or modify any provision of a
scheme after award of compensation**—Section 45 of the 20
principal Act is hereby amended—

- (a) By omitting from subsection (2) the word “vary”,
and substituting the word “change”;
- (b) By omitting from subsection (2) the word “varying”,
and substituting the word “changed”;
- (c) By omitting from subsection (2) the word “varied”, and
substituting the word “changed”;
- (d) By adding to subsection (2) the words “For the purpose
of this section the claimant’s costs shall include an
amount equal to the amount of his nugatory expendi- 30
ture that has been reasonably incurred and results
directly from the provision of the district scheme or
the refusal or prohibition which gave rise to the
claim for compensation from the time when the
provision, refusal, or prohibition was made up to 35
the time when the provision was changed or the
refusal or prohibition was withdrawn or modified”;
- (e) By omitting from paragraph (b) of subsection (3) the
word “varying”, and substituting the word 40
“changed”.

45. Power to take land and to require land to be taken—
Struck Out

5 Section 47 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (3) the words “consonant with the vicinity”.

New

10 (1) Section 47 of the principal Act is hereby amended—
(a) By omitting from subsection (2) the words “subsection three”, and substituting the words “subsections (3) and (3A)”:

(b) By omitting from paragraph (b) of subsection (3) the words “consonant with the vicinity”.

15 (2) Section 47 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsection:

20 “(3A) Where any residential building in a residential zone has been wholly or partly destroyed by fire, earthquake, hurricane, or other disaster, and the Council refuses a permit to reinstate or rebuild by reason of the size of the section being
25 less than the minimum specified in the district scheme, the Council shall, if the owner so requires, acquire the property at the then current market value, which shall be assessed so far as the unimproved value is concerned on the basis that the residential building so damaged or destroyed could be reinstated or rebuilt on the section. In the absence of agreement between the owner and the Council as to the current market value, that value shall be fixed by the Land Valuation Court.”

30 46. Other delegations by Councils—(1) The principal Act is hereby amended by repealing section 49A (as inserted by section 30 of the Town and Country Planning Amendment Act 1957), and substituting the following section:

“49A. (1) Notwithstanding the provisions of section 63 of the Municipal Corporations Act 1954 and section 71 of the

35 *Struck Out*

Counties Act 1956, any Council having an operative district scheme may delegate to a committee constituted under either of those sections—

40 “(a) Such of its powers, duties, and discretions under this Act as may be necessary for the proper operation and administration of its operative district scheme; and

Struck Out

“(b) Authority to deal with any application for a departure from an operative district scheme up to and including the stage of making a recommendation to the Council in respect of the application. 5

“(2) Such of the powers, duties, and discretions as are delegated to any such committee and as relate to the bulk and location of buildings permitted upon sites and to off-street provision for vehicles being loaded and unloaded may be subdelegated by the committee to such subcommittee of councillors, or to such councillor, as the Council may approve.” 10

New

Counties Act 1956:

“(a) Any Council having an operative district scheme may delegate to a committee constituted under either of those sections— 15

“(i) Such of its powers, duties, and discretions under this act as may be necessary for the proper operation and administration of its operative district scheme; and 20

“(ii) Authority to deal with any application for a departure from an operative district scheme up to and including the stage of making a recommendation to the Council in respect of the application: 25

“Provided that such of the powers, duties, and discretions as are delegated to any such committee, and as relate to the bulk and location of buildings permitted upon sites, to the number of people permitted in any area or on any site, to off-street provision for vehicles being loaded and unloaded, and to off-street parking of vehicles, may be subdelegated by the committee to such subcommittee or councillor as the Council may approve: 30

“(b) Any Council not having an operative district scheme may delegate to a committee constituted under either of the aforesaid sections— 35

“(i) Such of its powers, duties, and discretions as relate to the bulk and location of buildings permitted upon sites, to the number of people permitted in any area or on any site, to off-street provision for vehicles being loaded and unloaded, and to off-street parking of vehicles; and 40

“(ii) Any application for the consent of the Council to a departure or change of use, up to and including the stage of making a recommendation to the Council in respect of the application.” 45

(2) Section 30 of the Town and Country Planning Amendment Act 1957 is hereby consequentially repealed.

47. Procedure in respect of objections and applications—
The principal Act is hereby amended by inserting, after the said section 49A, the following section:

5 “49B. The procedure for the institution, hearing, and determination of objections and applications shall be in accordance with regulations under this Act, and, in the absence of any such regulations or so far as any such regulations do not extend, the Council or its committee shall determine the procedure.”

10 48. Record of changes, departures, and conditions—The principal Act is hereby amended by inserting, after the said section 49B, the following section:

15 “49c. (*Every Council shall keep available for public inspection*) (1) Every Council shall keep at the office of the Council—

“(a) An adequate and properly annotated copy of its operative district scheme, showing all changes and amendments made to the scheme and the location of all properties affected by departures:

20 “(b) An adequate and properly annotated record in readily accessible form in respect of each property concerned, of all consents to departures and of all conditions, obligations, restrictions, prohibitions, and covenants imposed under this Act by the Board or the Council in respect of any land or building in the district of that Council and of all requirements made by the Minister or any local authority but not incorporated in the district scheme.

30 New

“(2) The public shall have the right to inspect, during ordinary office hours, without fee, the documents referred to in subsection (1) of this section.

35 “(3) Every Council shall, without delay, send to the Branch Manager of the Valuation Department in whose district land affected by the district scheme is situated a copy of all variations, changes, amendments, departures, requirements, conditional uses, and changes of use, made, granted, or consented to under this Act.”

40 49. Power to enter properties—The principal Act is hereby amended by inserting, after the said section 49c, the following section:

40 *Town and Country Planning Amendment (No. 2)*

“49D. Where any Magistrate is satisfied on an application in writing made on oath that there is reasonable cause to believe that there may be grounds for the exercise of the powers of any Council under section 34A of this Act (which was inserted by section 21 of the Town and Country Planning Amendment Act 1957), or that any person is committing an offence against this Act in respect of any land or building, the Magistrate may, by warrant under his hand, authorise an officer of the Council named in the warrant, together (where the warrant provides) with any constable, to enter and search the land and buildings, if necessary by force, at such time or times in the day or night as are mentioned in the warrant. Every such warrant shall continue in force until the purpose for which it was granted has been satisfied.”

50. Offences—The principal Act is hereby amended by inserting, after section 50, the following section:

“50A. Every person commits an offence against this Act who fails to comply with or acts in contravention of any condition, restriction, obligation, prohibition, or covenant which has been imposed by the Board or the Council in exercising any power conferred by this Act, or who (before the expiry of the time provided by this Act for the lodging of any appeal) does any act or thing against the doing of which an appeal to the Board could be lodged, or who (before an appeal which has been lodged with the Board has been decided or withdrawn) does any act or thing the subject of that appeal.”

51. Penalties for offences—The principal Act is hereby amended by inserting, after section 50A, the following section:

“50B. Every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding one hundred pounds, and if the offence is a continuing one to a further fine not exceeding five pounds for every day or part of a day during which the offence continues.”

52. Matters to be dealt with in regional planning schemes—
(1) The First Schedule to the principal Act is hereby amended—

(a) By omitting from paragraph (b) of clause 4 the word “archaeological”, and substituting the word “scientific”:

(b) By repealing paragraph (c) of clause 4.

(2) The First Schedule to the principal Act is hereby further amended by adding the following clause:

"5. Stage Development:

The period during which each stage of development is to be undertaken."

53. Matters to be dealt with in district schemes—(1) The
5 Second Schedule to the principal Act is hereby amended by inserting, after clause 3, the following clause:

"3A. The designation of land for public works or for proposed public works differentiating between Government and local works."

10 (2) The Second Schedule to the principal Act is hereby (*further amended by inserting in clause 5, after the word "terminals", the word "sea-ports"*) further amended by omitting from clause 5 the words "transport terminals, aerodromes", and substituting the words "land, sea, and air
15 transport terminals".

New

(2A) The Second Schedule to the principal Act is hereby amended by adding to clause 5 the words "the prohibition or restriction and the control of all or any vehicular traffic
20 on any road or street or part thereof, not being a State highway or part thereof".

Struck Out

(3) The Second Schedule to the principal Act is hereby further amended by repealing clause 7, and substituting the
25 following clause:

"7. Electricity, gas, and water supply systems."

(4) The Second Schedule to the principal Act is hereby further amended by repealing paragraph (c) of clause 8, and substituting the following paragraph:

30 "(c) The provision, prohibition, and control of verandahs in commercial streets:"

(5) The Second Schedule to the principal Act is hereby further amended by inserting, after clause 10, the following clause:

35 "10A. Control of development in areas containing earthquake faults or land likely to be affected by geothermal activity, flooding, erosion, land slip, and subsidence, and other special areas."