

Words struck out by the Local Bills Committee are shown in italics within bold brackets or in roman enclosed in panel; words inserted are shown in black or in roman with rule down side.

Hon. Mr Goosman

TOWN AND COUNTRY PLANNING

ANALYSIS

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A BILL INTITULED

Title. AN ACT to consolidate and amend certain enactments of the General Assembly relating to the making and enforcing of regional planning schemes and district schemes. 5

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

Short Title and commencement. 1. (1) This Act may be cited as the Town and Country Planning Act 1953. 10

(2) This Act shall come into force on the first day of [November, nineteen hundred and fifty-three.] February, nineteen hundred and fifty-four.

Interpretation. 2. (1) In this Act, unless the context otherwise requires,— 15

“ Amenities ” means those qualities and conditions in a neighbourhood which contribute to the **pleasantness**, harmony, and coherence of the environment and to its better enjoyment for any permitted use: 20

“ Board ” means the Town and Country Planning Appeal Board constituted under this Act:

“ Combined scheme ” means a scheme prepared in respect of two or more districts under section *thirty* of this Act; and includes any section **25** of any such scheme:

5 “ Council ”, in relation to any district scheme
 that does not form part of a combined scheme,
 means any City Council, Borough Council,
 Town Board, County Council, or other
 authority responsible for the general adminis-
 10 tration of the district to which the district
 scheme relates, and where the district scheme
 relates to a road district in a county where the
 Counties Act 1920 is suspended or not in force
 means the Road Board of the road district;
 and, in relation to any other scheme, means the
 authority responsible for the administration of
 the scheme in the place in respect of which the
 15 question arises; and, in respect of any area
 for which there is no City Council, Borough
 Council, Town Board, County Council, or other
 authority responsible for the general adminis-
 tration of the district and no such Road Board
 and for which the Minister (by notice in the
 20 *Gazette*) has assumed the functions and powers
 of a local authority under this Act or has
 appointed any other person or body under this
 Act to exercise those functions and powers,
 means the Minister, person, or body specified
 25 in the notice:

See Reprint
 of Statutes,
 Vol. V, p. 180

“ District ”, in relation to any Council or local
 authority, means the district of that Council
 or local authority;

New

30 | and, in relation to any
 Council, includes any land on which any
 structure, excavation, or other work is situated
 or proposed to be situated, and any reclaimed
 land, if the land adjoins the district and is not
 35 | included in the district of any other Council:

“ District scheme ” means a district scheme pre-
 pared under *Part II* of this Act; and includes
 a section of a district scheme **and any variation
 of a district scheme:**

40 “ Highway ” means any motorway, road, street,
 access way, or service lane:

“Joint committee” means a joint committee constituted under section *thirty* of this Act in connection with a combined scheme:

“Local authority” means any Council, and any Board, Commissioners, trustees, or other person or body however designated, having authority under any enactment to undertake the construction or management of any public work, or declared by any enactment to be a local authority for the purposes of the Public Works Act 1928: 5 10

“Minister” means the Minister of Works:

Struck out

“Occupier” means an occupier within the meaning of the Rating Act 1925: 15

New

“Occupier”, in relation to any rateable property within the meaning of the Rating Act 1925, means any occupier of the property within the meaning of that Act: 20

“Operative”, in relation to any regional planning scheme, means that the scheme has become operative or is deemed to have become operative under subsection *eight* of section *six* or subsection *five* of section *ten* of this Act and has not ceased to be operative; and, in relation to any district scheme, means that the scheme has become operative or is deemed to have become operative under subsection *two* of section *eighteen* or subsection *two* of section *twenty-seven* of this Act and has not ceased to be operative: 25 30

New

“Public library” does not include a mobile library or a children’s library: 35

“Public interest” includes all matters which can in any circumstances be of public interest:

“Regional Planning Authority” or “Authority” means a Regional Planning Authority constituted under section *eight* of this Act; and includes a regional planning committee or a metropolitan planning committee or similar body which by that section is deemed to be constituted a Regional Planning Authority: 40

See Reprint
of Statutes,
Vol. VII, p. 622

Ibid., p. 977

“Regional planning scheme” means a regional planning scheme prepared under *Part I* of this Act; and includes a section of a regional planning scheme:

5 “Town Board” means the Board of a town district established under the Town Boards Act 1908, whether the town district forms part of any county or not.

See Reprint
of Statutes,
Vol. V, p. 333

(2) Where this Act requires anything to be publicly notified or refers to public notification or public notice, the subject matter shall be published in the *Gazette* and also twice, with an interval of one week, in some newspaper circulating throughout the area affected by that subject matter, and where time is to be counted from anything being publicly notified or from any public notification or public notice, it shall be counted from the last publication in a newspaper.

New

(3) Where under this Act any difference of opinion arises as to suitability, existence of any amenity, effect upon amenities, appropriateness, principles of town and country planning, or likelihood in relation to the inclusion of any provision in a scheme, and the question requires decision for the proper application of this Act, the Minister or any Council or body or person affected may apply to the Board to determine the question; and the decision of the Board shall be final for the purpose of determining the difference in respect of which the decision is given.

(4) The term “character”, in relation to the use of any land or buildings, shall be construed with regard to the effect of that use upon the amenities of the neighbourhood.

PART I

35 REGIONAL PLANNING SCHEMES

3. (1) Every regional planning scheme shall have for its general purpose the conservation and economic development of the region to which it relates by means of the classification of the lands comprised therein for the purposes for which they are best suited by nature or for which they can best be adapted, and the co-ordination

General purpose
of regional
planning
schemes.

Cf. 1929,
No. 28, ss. 6
(2), 7

of all such public improvements, utilities, services, and amenities as are not limited by the boundaries of the district of any one local authority, or do not relate exclusively to the development of any one such district.

(2) Every regional planning scheme shall be designed as a guide to Councils engaged in the preparation of district schemes, and also as a guide to public authorities and local authorities and all persons in relation to the conservation or development within the region of the public utilities, services, industries, amenities, and other matters dealt with or adverted to in the regional planning scheme. 5 10

Obligation to conform to regional planning scheme.

4. (1) Every public body and local authority, in the performance of its public duties and functions, shall adhere to the provisions of any regional planning scheme that is operative in its district; but 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 it conflicts with any operative district scheme or any proposed district scheme that has been recommended by the Council for the district to which it relates and publicly notified. 15 20

(2) On any such appeal **the Regional Planning Authority shall be given full opportunity of being heard,** and 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.** 25 30

Preliminary survey to be made before regional planning scheme is prepared.
Cf. 1929, No. 28, s. 6 (3)

5. Every regional planning scheme shall be preceded by a comprehensive survey of the natural resources of the area to which it relates and of the present and potential uses and values of all lands within the region in relation to national, regional, and local **development,** public utilities, services, and amenities. 35

Preparation and approval of regional planning scheme.
Cf. 1929, No. 28, s. 6 (1)

6. (1) Regional planning schemes may be prepared and approved in accordance with the provisions of this Part of this Act, and shall make provision for such of the matters referred to in the *First Schedule* to this Act as may be appropriate to the circumstances. 40

(2) Every regional planning scheme shall be prepared in accordance with any regulations made under this Act which apply to it, and shall consist of a description of the purposes of the scheme and the
5 means by which those purposes will be attained, together with a code of ordinances (if appropriate), the development map or maps for the region, and such other particulars and material as the Regional Planning Authority may consider necessary for the proper
10 explanation of the scheme.

(3) Every regional planning scheme may be prepared and approved in sections which may relate to all or any of the matters specified in the *First Schedule* to this Act and to the whole of the region or any convenient
15 subdivision thereof.

(4) Every operative regional planning scheme shall be reviewed from time to time at intervals of not more than ten years.

(5) Every map and plan in connection with any
20 regional planning scheme shall be on a scale prescribed by regulations made under this Act and so far as no such scale is so prescribed on such scale as may be appropriate to show the subject matter.

(6) Copies of every operative regional planning
25 scheme shall be made available for convenient public inspection at convenient places in the district of each [*local authority*] **Council** within the region, which places shall include every public library and branch thereof in the district.

(7) Any approved regional planning scheme may
30 be cancelled, or any of the provisions thereof may be enlarged, modified, or altered at any time; and all the provisions of this Act relating to the preparation and approval of regional planning schemes shall apply
35 to every such cancellation, enlargement, modification, and alteration.

(8) Where any regional planning scheme has been approved by the Town Planning Board before the commencement of this Act, it shall be deemed to have
40 been approved as required by this Act and to be operative.

New

(9) Where any regional planning scheme has become operative it shall not thereafter be deemed to be invalid because it does not deal with any matter referred to in the *First Schedule* to this Act which is appropriate to the circumstances, but any such matter shall be covered by an amendment of the scheme or a separate section of the scheme as soon as practicable after the omission is discovered. 5

Councils may unite in preparation of regional planning scheme.
Cf. 1929, No. 28, s. 8

7. (1) Any two or more Councils having jurisdiction over adjacent districts may, of their own motion or acting on the recommendation of the Minister, resolve to unite for the purpose of preparing a regional planning scheme for the whole or for a defined portion of the total area within their several jurisdictions. 10 15

(2) No such resolution shall be effective unless and until it has been approved by the Minister by notice published in the *Gazette*; and the Minister, in giving his approval, may extend or reduce the area to be dealt with in the regional planning scheme, and may include therein any area or areas within the jurisdiction of any other Council or Councils. 20

(3) The area [*to be comprised in any regional planning scheme (in this Act referred to as a region)*] **comprised or to be comprised in any region** shall be defined by notice in the *Gazette* as aforesaid with such particularity as the Minister thinks necessary, and may from time to time be in like manner altered by the Minister. 25

New

As soon as practicable after the commencement of this Act every regional or metropolitan planning committee or similar body whose area has not previously been notified in the *Gazette* shall supply to the Minister, and the Minister shall publish in the *Gazette*, a description of the area in respect of which the Committee or body has been constituted. 30 35

(4) If any Council, having received a recommendation from the Minister in relation to the constitution of a region, fails to take any steps required to be taken 40

by that Council for the constitution of the region, the Minister may proceed to define the region and to include therein such area or areas within the district of that Council as he thinks fit.

5 (5) In fixing the boundaries of any region for the purposes of a proposed regional planning scheme, regard shall be had to natural geographic boundaries and to common social and economic interests, and, in cases of conflict, such considerations shall prevail over
10 considerations based on the existing boundaries of the districts of the uniting Councils.

8. (1) For the purposes of every regional planning scheme proposed to be prepared as aforesaid there shall be a Regional Planning Authority consisting of
15 the representative or representatives of the several Councils concerned who are appointed to the Authority in accordance with the provisions of this section.

Regional
Planning
Authorities.
Cf. 1929,
No. 28, s. 9

(2) Each Council whose district is wholly or partly within the region shall be represented on the Regional
20 Planning Authority, either separately or in common with other Councils, by such number of representatives as the Councils may **from time to time** determine; and failing agreement by such number as the Minister may **in any such case** by notice in the *Gazette* determine:

25 Provided that in making any such determination the Minister shall have regard to the population, area, and Government capital valuation of each district or part of a district in the region as well as to such other factors as the Minister deems relevant:

30 *New*

Provided also that, if the Minister becomes satisfied that the representation of any Council on the Regional Planning Authority is not equitable, he may, by
35 notices to the Regional Planning Authority and to the Councils concerned direct what changes are to be made in respect of representation on the Regional Planning Authority and how those changes are to be brought about; and in every such case the Minister's ruling shall be final and binding on all parties until
40 they otherwise determine or the Minister by like notices otherwise directs.

(2A) Every local authority within the region other than the Council shall be entitled to be represented on the Regional Planning Authority by at least one
45 associate member.

(3) Every member of a Regional Planning Authority shall be appointed by the Council or Councils which he represents and shall hold office during the pleasure of the said Council or Councils.

(4) If any Council or Councils entitled to appoint any member or members of a Regional Planning Authority fails to make any such appointment for forty days after being called upon by the Minister to do so, the Governor-General may make the appointment. Every person so appointed by the Governor-General shall hold office during the pleasure of the Governor-General, or until the appointment of a member by the Council or Councils concerned has been notified to and confirmed by the Minister.

(5) Every regional planning committee constituted under the Town Planning Act 1926, and every metropolitan planning committee or similar body which was constituted [*for the purposes of that Act*] in respect of any metropolitan planning area and which was in existence immediately before the commencement of this Act, shall be deemed to have been constituted as a Regional Planning Authority **in respect of that area** under this Act by agreement of its constituent Councils, and the members thereof shall continue to hold office as if appointed under this Act, those members who do not represent a Council whose district is wholly or partly within the region being deemed to be associate members.

(6) Any Council within any such metropolitan planning area that was not represented on the metropolitan planning committee or similar body immediately before the commencement of this Act shall be entitled to such representation on the Regional Planning Authority as may be fixed in accordance with subsection *two* of this section.

9. (1) A Regional Planning Authority may associate with itself any person or persons who, in the opinion of the Authority, may be possessed of expert knowledge of advantage to the Authority in the exercise of its functions, and every person so associated with the Authority shall for the time being be deemed to be a member of the Authority. Every such association shall be during the pleasure of the Authority:

Associate
members
of Regional
Planning
Authority.
Cf. 1929,
No. 28, s. 10

Provided that no person so associated with the Authority shall be entitled to vote at any meeting of the Authority on any question. [*affecting any such association or the duration or termination of any such* 5 *association.*]

(2) Without limiting the generality of the provisions of subsection *one* of this section, there may be associated with any Regional Planning Authority **under that subsection** a representative or representatives of any 10 Department of State, or of any public or local authority, or of any organization 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 15 or utility.

(3) Every associate who has been appointed before the commencement of this Act to a regional planning committee or a metropolitan planning committee or similar body which is deemed to be constituted as a 20 Regional Planning Authority under this Act, and who holds office on the passing of this Act, shall be deemed to have been appointed to the office under this Act.

10. (1) The first function of the Regional Planning Authority appointed in respect of any region shall be 25 to prepare or cause to be prepared in relation to the region the preliminary survey of natural resources and other matters referred to in section *five* of this Act, and thereafter to prepare for the region a regional planning scheme; and, having regard to the present 30 and future requirements of the region, to make provision in the scheme for such of the matters referred to in the *First Schedule* to this Act as may be appropriate to the circumstances.

(2) Every regional planning scheme and every 35 section of a regional planning scheme shall, before approval, be submitted to the Minister for consideration in conjunction with proposed public works, and every public work for which the Minister requires provision to be made shall be provided for in the scheme 40 to the satisfaction of the Minister.

(3) Every regional planning scheme and every section of a regional planning scheme shall, when completed, be submitted to every Regional Planning Authority whose region [*adjoins*] is **adjacent** to the 45 region to which the scheme relates for consideration in

Functions of Regional Planning Authority in preparation of regional planning scheme.
Cf. 1929, No. 28, s. 11

conjunction with the operative and proposed regional planning schemes for the adjacent regions, and for approval.

(4) Every regional planning scheme and every section of a regional planning scheme shall, when completed, be submitted to every local authority whose district is wholly or partly within the region for its approval. 5

(5) Every 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 subsections *three* and *four* of this section, and has been publicly notified. 10

(6) If any Regional Planning Authority or local authority refuses to approve any regional planning scheme or any section of any regional planning scheme that is submitted for its approval, or fails to approve it within [*three*] **four** months after the date on which it is so submitted, that Regional Planning Authority or local authority or any other local authority affected thereby or the Regional Planning Authority which prepared the scheme may appeal to the Board to determine whether any provision to which objection is taken [*should stand part of the scheme or section*] **is a desirable one, and (if so) 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 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 or failed to approve it. 15
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(7) Where it is not possible to obtain the approval of all the Regional Planning Authorities and local authorities to any regional planning scheme or any section of any regional planning scheme which has been prepared as aforesaid, but they are willing to approve part of the scheme or section which is capable of being a separate section of the scheme, they may approve that part separately as a section of the scheme, and the provisions of subsection *six* of this section shall apply in respect of the remainder of the scheme or section of which part only has been approved. 35
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11. (1) Any Regional Planning Authority may **from time to time** appoint an executive committee of not less than five or more than nine members **for the whole or any section of its regional planning scheme**, with power to prepare all surveys, maps, plans, and reports that may be necessary towards the preparation of [a regional planning scheme] **the scheme or section**, and otherwise to perform the functions of the Regional Planning Authority, **or such of them as the Regional Planning Authority may from time to time determine in respect of the scheme or section.**

Regional Planning Authority may appoint committees. Cf. 1929, No. 28, s. 12

(2) Any Regional Planning Authority may appoint such advisory committees and such technical committees as it thinks fit.

(3) Every member of the Regional Planning Authority and every person for the time being associated with the Authority in accordance with the foregoing provisions of this Act shall be eligible for appointment as a member of any such advisory committee or technical committee.

12. (1) Every Regional Planning Authority appointed for the preparation of a regional planning scheme shall continue in existence after the completion and approval of the scheme until it is dissolved by resolutions passed by a majority of the Councils represented thereon.

Regional Planning Authority to continue in existence until dissolved. Cf. 1929, No. 28, s. 13

(2) The functions of the Regional Planning Authority after the completion of a regional planning scheme as aforesaid shall be:

- (a) To review the scheme from time to time as required by this Act:
- (b) To make recommendations with respect to the preparation of district schemes for areas within the region

New

; and, where it thinks it necessary, to lodge an objection or appeal in respect of any provision in a district scheme that conflicts with any provision in the regional planning scheme:

- (c) To advise or make recommendations to local authorities and other persons and bodies concerned in the operation of any regional planning scheme or district scheme in respect of any matters relative thereto:

(d) To assist as far as it may in the consideration of town and country planning within its region and other regions and districts.

Regional Planning Authority to prepare estimate of cost of preparation of scheme.

Cf. 1929, No. 28, s. 14

13. (1) As soon as possible after its constitution every Regional Planning Authority shall prepare an estimate of the expenditure involved in the preparation of a regional planning scheme; and a copy of the estimate, with the recommendations of the Authority as to the apportionment of the expenditure among the several Councils concerned, shall be submitted to each of those Councils.

(2) Except with its prior consent, no Council shall be required to contribute towards the administrative expenditure of a Regional Planning Authority in any year a sum exceeding the amount that would be produced by a rate of one-fiftieth of a penny in the pound on the capital value of all rateable property within all parts of its district to which the regional planning scheme applies.

Minister to appoint principal Council to be responsible for expenditure.

Cf. 1929, No. 28, s. 15

14. (1) For the purposes of the preparation of a regional planning scheme and for matters incidental thereto **and the proper exercise and fulfilment of the powers and duties of the Regional Planning Authority,** the Minister shall, by notice published in the *Gazette*, declare one of the uniting Councils to be the principal Council. Any such declaration may be at any time in like manner revoked or varied.

(2) All expenses and liabilities incurred by a Regional Planning Authority shall be expenses and liabilities of the principal Council, and all contracts made, rights acquired, and liabilities incurred by the said Authority shall be deemed to be made, acquired, and incurred by the principal Council.

(3) The uniting Councils shall contribute towards the cost of preparing a regional planning scheme and the other expenditure of the Regional Planning Authority to such extent and in such manner as is agreed upon by them, and if they are unable to agree as to the manner in which the cost is to be met by them, the Minister, after such inquiry as he thinks proper to direct, may apportion the cost; and the amount to be paid at any time by any Council other than the principal Council in accordance with the apportionment shall be recoverable as a debt due to the principal Council.

(4) The cost of preparing a regional planning scheme as aforesaid shall for the purposes of this section include such amount as the Minister may approve in respect of the administrative and other expenses of the principal Council incurred in relation to the regional planning scheme.

15 10 15 **15.** Every member of a Regional Planning Authority, including every member for the time being associated with any such Authority, and every member of any committee appointed by any such Authority, shall be entitled to a refund of all expenses reasonably incurred by him in attending meetings of the Authority or committee or otherwise in connection with the business of the Authority or committee. Save as aforesaid, no such member or associate shall be entitled to receive any payment in respect of his services in connection with the Authority or committee except with the special approval of the Minister.

Refund of expenses to members of Regional Planning Authority.
Cf. 1929, No. 28, s. 16

20 25 **16.** (1) Where any operative regional planning scheme relating to any region, or any operative combined scheme relating to any area provides for any work or plan of zoning to be established, undertaken, constituted, or constructed within the region or area for the benefit of the districts of some or all of the local authorities within the region or area, the local authorities which are of opinion that their interests will be served thereby may enter into and carry out such agreement for the execution of the work or plan or any part thereof as may seem to them most suited to the circumstances.

Agreement for execution of combined works.

30 (2) Any agreement entered into under this section may provide:

35 (a) For any local authority which is a party to the agreement to undertake or be responsible for the execution or carrying out of the work or plan or any part thereof, and to enter into contracts in connection therewith:

(b) For the acquisition by any party to the agreement of any land required for the work or plan:

40 (c) For the management and control of the work or plan or any part thereof to be vested in any party to the agreement:

45 (d) For the maintenance of the work or plan, and for the contributions by the parties to the agreement towards the costs of maintenance:

- (e) For the apportionment or allocation between the parties to the agreement of the cost of the work or plan and any revenues derived therefrom:
- (f) For the payment by any party to the agreement of its share of the cost of the work or plan or the costs of the maintenance thereof either in one sum or by instalments spread over any period or by yearly or other payments as and when the costs are ascertained:
- (g) For the payment by any party to the agreement in respect of moneys payable by that party of interest at such rate as the Minister of Finance approves:
- (h) For the giving by any party to the agreement of security for the payment of any moneys payable by that party under the agreement:
- (i) For such other terms and conditions incidental to the general arrangement as may be agreed upon by the parties concerned.
- (3) It is hereby declared that every work which any local authority establishes, undertakes, constitutes, or constructs under this section is a public work within the meaning of the Public Works Act 1928.
- (4) In any case to which this section applies, the respondent to any claim for compensation in respect of land taken or to be taken for any work or in respect of any damage which arises out of a work existing on any land shall be the local authority in which the land is vested or to be vested.
- (5) Where the moneys to be paid by any local authority within the meaning of the Local Government Loans Board Act 1926 under any agreement entered into under this section, **or in consequence of the issue by the Governor-General of a warrant under section sixteen A of this Act**, are not all to be payable within the financial year in which the agreement is entered into, those moneys, or so much thereof as consists of principal or the capital value of any instalments, shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting a liability to which section twelve of that Act applies.

See Reprint
of Statutes,
Vol. VII, p. 622

Ibid., Vol. V,
p. 415

(6) If default is made by a local authority for more than fourteen days in payment of any amount due by it under an agreement entered into under this section, the amount in respect of which default has been made, together with interest at the rate of five per cent per annum or at such other rate as may be provided by the agreement, shall be recoverable as a debt due by the local authority in default to the local authority to which the amount should have been paid.

(7) Agreements may be made under this section in respect of works that have been completed or partially completed as well as in respect of works not commenced, and in respect of plans that have become operative as well as of plans that have not become operative.

15 *New*

16A. (1) Where two or more local authorities which propose to enter into an agreement under section *sixteen* of this Act are of the opinion that their proposals will be of considerable advantage and benefit to other local authorities which should contribute to the cost of the proposals, the parties to the agreement may give to the other local authorities and to the Minister a notice to that effect supported by copies of the proposals fully specifying what is proposed and on what grounds the claim for contribution is based, and stating—

Power for local authorities to compel other local authorities to join in and share expenses of combined works and plans of zoning.

(a) What proportion of the cost it is proposed that each local authority should bear;

(b) That after the expiration of two months from the date of the notice being served it is the intention of the proposers to apply to the Governor-General for power to carry out the proposals and recover the proportion of the cost thereof from the local authority mentioned in the notice; and

(c) That any objection to the proposal must be sent to the Minister within the specified period of two months.

(2) At the expiration of the aforesaid period of two months the proposers may by petition apply to the Governor-General for power to carry out the proposals on the terms mentioned in the notice aforesaid.

New

(3) Any local authority may object, and shall state in the objection the grounds thereof, and shall send a copy thereof to each of the proposers.

(4) If an objection is lodged, the Governor-General may direct any Magistrate or other person to be a Commissioner to inquire into and report to him on the matter; and the Commissioner shall have all the powers of a Commission appointed by the Governor-General in Council under the Commissions of Inquiry Act 1908. 5 10

(5) If no objection is lodged within the two months aforesaid or if, although an objection is lodged, the Governor-General is of opinion that the proposals should be carried out, he may, if he thinks fit, by warrant under his hand publicly notified, authorize any local authority or local authorities to carry out the proposals, either as originally proposed or with such modifications or alterations as are agreed on between the local authorities concerned or as are recommended by the Commissioner, and may declare that a proportion of the cost thereof to be stated in the warrant shall be borne by any other local authority and that proportion shall be paid by the local authority accordingly. 15 20

(6) If the nature of the proposals is such that several local authorities will carry them out each in its own district, and the cost in all districts will be totalled and apportioned, the Governor-General may from time to time appoint one of the local authorities to be the principal local authority for the purpose of convening meetings of representatives of the local authorities, keeping and presenting statements of accounts, and collecting and distributing contributions in accordance with any warrant or agreement for the time being in force. 25 30

(7) Each local authority empowered to carry out the proposals shall carry them out in accordance with the warrant and shall from time to time as the cost accrues, make a demand in writing on any other local authority liable to contribute to the cost of the proposals. 35

(8) The demand shall show in detail the cost of carrying out the proposals to the date of the demand and the amount demanded in respect of the proposals, and if the other local authority does not within three months from the date of the demand being made satisfy it, the local authority to whom the amount is payable 40 45

New

may recover the amount with interest at five per cent per annum or as much thereof as may be found to be payable in any Court of competent jurisdiction; but the proportion to be paid as stated in the warrant of the Governor-General shall be conclusive and binding on the Court; and it shall not be competent for the Court to question the validity of the warrant.

(9) All costs, charges, and expenses attending or incidental to the exercise of the powers conferred upon the Governor-General or upon the Commissioner or other persons shall be a charge upon the revenues of such local authority or local authorities as the Governor-General directs, and may be recovered as a debt due to Her Majesty in any Court of competent jurisdiction.

PART II

DISTRICT SCHEMES

17. Every district scheme shall have for its general purpose the development of the area to which it relates (including, where necessary, the replanning and reconstruction of any area therein that has already been subdivided and built on) in such a way as will most effectively tend to promote and safeguard the health, safety [*convenience, amenities*] and convenience, and the economic and general welfare of its inhabitants, and the amenities of every part of the area.

18. (1) **Whether or not a regional planning scheme including its district has been prepared or become operative**, every Council shall provide and maintain in accordance with this Part of this Act, an operative district scheme in respect of all land within its district:

Provided that the Minister may, by public notice,—

(a) Exempt any Council from the obligations imposed by this Part of this Act in respect of the whole or any part of its district or in respect of any of the matters specified in the *Second* Schedule to this Act, subject to such conditions as he thinks reasonable:

(b) Cancel or vary any such exemption.

(2) Where any town planning scheme or extra-urban planning scheme has been prepared and provisionally approved **and sealed by the Town Planning Board** under the Town Planning Act 1926,—

General purpose of district schemes.
Cf. 1926, No. 52, s. 3

Obligation to provide district schemes.
Cf. 1926, No. 52, ss. 13, 14

- (a) It shall, if it has not been finally approved by the Town Planning Board before the commencement of this Act, be deemed to have been prepared and recommended by the Council for the district to which it relates, and may be completed, approved, and made operative in accordance with the provisions of this Act: 5

New

Provided that, if the Council does not proceed under this paragraph with the scheme that has been approved and sealed as aforesaid, it shall provide a fresh scheme under this Act: 10

- (b) It shall, if it has been finally approved by the Town Planning Board before the commencement of this Act, be deemed to have been approved as required by this Act, and shall be operative under this Act as a district scheme as from the commencement of this Act: 15

Provided that [*the scheme shall cease to be operative*] **any scheme to which this paragraph applies shall cease to be operative or to have effect** after six months from the date of the commencement of this Act unless within that period the Council has given public notification— 20 25

- (i) Of the existence of the scheme:
- (ii) Of the place or places within the district where the scheme may be inspected by the public: 30
- (iii) That the scheme has become an operative district scheme for the purposes of this Act and all regulations made thereunder.

Provision of district schemes by sections.

19. (1) Subject to the approval of the Minister and to such conditions as the Minister may prescribe, which approval and conditions may be given and prescribed, and may be varied, either generally by notice published in the *Gazette* or specially by notice served on the Council, any Council may prepare, recommend, and approve its district scheme by sections which may relate to all or any of the matters specified in the *Second Schedule* to this Act and to the whole of the district or any convenient subdivision thereof. 35 40

(2) Every subsequent section of any district scheme shall conform to the requirements of every section of the same scheme that is for the time being operative; and in so far as any inconsistency may exist between
5 two sections that are for the time being operative, the earlier section shall prevail.

New

10 (3) Where any district scheme has become operative it shall not thereafter be deemed to be invalid because it does not deal with any matter referred to in the *Second* Schedule to this Act which is appropriate to the circumstances, but any such matter shall be covered by an amendment of the scheme or a separate section of the scheme as soon as practicable after the
15 omission is discovered.

(4) Where the boundaries of any district are altered so as to take part of any area for which a district scheme has been prepared out of the control of the Council which prepared it,—

20 (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 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:

25
30 Provided that the Councils which control the parts of the area shall as soon as practicable make such variations of the scheme as may be essential in consequence of the alteration of the boundaries:

35 (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
40 that part of the area.

Contents of
district
schemes.
Cf. 1926,
No. 52, s. 15

20. (1) Subject to the foregoing provisions of this Part of this Act, every district scheme shall, having regard to the present and future requirements of the district and to its geographical and economic relationship to any neighbouring area, make provision for such of the matters referred to in the *Second Schedule* to this Act as are appropriate to the circumstances. 5

(2) Every district scheme shall be prepared in accordance with any regulations made under this Act which apply to it; and shall consist of a description of the particular purposes of the scheme, a code of ordinances for its administration and implementation, and a map or maps illustrating the proposals for the development of the area, and such other particulars and material as the Council may consider necessary for the proper explanation of the scheme. 10 15

(3) No district scheme shall provide for an industrial area to be located adjacent to any residential area in *[an adjoining district unless the Council of the adjoining district]* **another district unless the Council of that district** resolves to consent to the proposal or unless the proposal is authorized by the Board on an appeal made under subsection *four* of this section. 20

(4) If any Council has applied in writing to the Council of an adjoining district for consent to the establishment of an industrial area adjacent to a residential area in the adjoining district, and the Council of the adjoining district refuses its consent or fails to consent within *[two]* **three** months after receipt of the application, the Council which made the application may appeal to the Board to authorize the proposal. 25 30

Struck out

<p>(5) After having been recommended by resolution of the Council, every district scheme shall be submitted to the Minister for consideration in conjunction with proposed public works and a copy shall be supplied to the Council for every adjoining district for co-ordination with its district scheme. 35</p>

New

(5A) After every district scheme has been recommended by resolution of the Council—

(a) The scheme shall be submitted by the Council to the Minister for consideration in conjunction with proposed public works; and

(b) A copy shall be supplied by the Council to every local authority having jurisdiction within the district and to the Council for every adjoining district.

(6) 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 shall be provided for to his **or its** satisfaction in the district scheme, and the district scheme shall **[be incapable of being approved] not be publicly notified under section twenty-one of this Act** until this has been done:

Provided that, where any portion of a district scheme is not affected by any **[requirement of the Minister] such requirement of the Minister or of a local authority** that has not been provided for, that portion may, with the approval of the Minister, be **[approved] publicly notified** as a section of the scheme before provision is made for **[the Minister's] those** requirements in respect of the remainder of the scheme.

21. (1) As soon as the requirements of section *twenty* of this Act have been complied with in respect of any proposed district scheme, the Council which prepared the scheme shall publicly notify the place or places at which the scheme may be inspected and shall deposit at each such place for public inspection a set of the copies of all maps, plans, and other particulars comprised in the scheme. 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 *twenty-four* of this Act, the Council varies the scheme at any time before it becomes operative, the Council shall publicly notify the nature of the variation and the places and times at which a copy of it and of the

Public
notification.
Cf. 1926,
No. 52,
s. 17 (2)

scheme may be inspected, and shall deposit at each such place for public inspection a set of the copies of all maps, plans, and other particulars relating to or affected by the variation. The places to be so notified shall include every public library and branch thereof in the area affected. 5

(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 **[two]** **three** months after the date of the public notification. 10

(3) The Council shall make available on request copies of the scheme, **other than the plans**, for use by objectors or their counsel and other interested parties at a reasonable charge sufficient to cover the Council's expenses in the matter. 15

New

(4) The Council shall lodge one copy of the scheme with the District Land Registrar for each land registration district in which land affected by the scheme is situated. 20

(5) Notwithstanding the provisions of subsection *one* of this section, where a district scheme has been provisionally approved and sealed by the Town Planning Board and publicly notified before the commencement of this Act, and the scheme is permitted by paragraph (*a*) of subsection *two* of section *eighteen* of this Act to be completed, it shall not be necessary again to publicly notify the scheme; but the Council shall comply with subsection *five* of section *twenty* of this Act, and shall allow a period of not less than two months thereafter for the Minister and local authorities to lodge objections to the scheme. 30

Objections
by owners.
Cf. 1926,
No. 52,
ss. 17 (3), 18

22. (1) Notwithstanding anything to the contrary in this Act or in any regional planning scheme, every owner and every occupier of property affected by any proposed district scheme which has been prepared shall have the right to object to the scheme, or to any variation thereof that is made before the scheme becomes operative, and may, by notice in writing addressed to the Council, give notice of his objection and of the grounds thereof at any time within the period specified in the public notice calling for objections. 35 40

(2) Not later than [*two weeks*] **one month** before the hearing of the objections, the Council shall publish in a newspaper circulating in its district notice of the date of the hearing with a summary of the [*nature*] **subject**
 5 **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 of their wish to be heard at least three days before the date fixed for the hearing **and shall post to each objector a notice**
 10 **of the date when the hearing will commence.**

(3) Every owner and every occupier of property affected by any district scheme shall have the right to inspect and make copies of any objection to the scheme that has been made in accordance with subsection *one*
 15 of this section; and may, by notice in writing to the Council, give notice of his opposition to any objection; and for the purposes of this Act every person who gives notice of opposition to an objection as aforesaid shall be deemed to be an objector.

20 **23.** The Minister, and every local authority [*other than the Council which prepared any district scheme*] having jurisdiction in or adjacent to the area to which the district scheme relates, and every Regional Planning Authority and joint committee having jurisdiction in
 25 or adjacent to that area, **and every organization 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 similar
 30 rights of objection not only as an owner or occupier of property but also on the ground of any public interest **or of failure to satisfy any requirement of the Minister or local authority under subsection six of section twenty of this Act.**

35 **24.** (1) The Council which prepared the district scheme shall as soon as practicable consider all such objections, or it may, if it thinks fit, appoint any two or more of its members as a committee with power to hear the objections and to make recommendations to
 40 the Council with respect thereto. **Every objection shall be heard in public.**

Objections by
 Minister and
 local
 authorities, etc.

Hearing of
 objections.
 Cf. 1926,
 No. 52, s. 19

(2) At the hearing of any objection under this section the Council or any committee appointed by the Council as aforesaid shall have power to summon witnesses and to hear evidence on oath. Any **[party] objector** or any local authority or the Minister may be represented at the hearing by counsel or otherwise. 5

New

The Council shall not, without the written consent of the Minister or local authority, as the case may be, or of any person who is his or its representative at any hearing of objections to the scheme, vary any provision of a district scheme that has been made to satisfy any requirement of the Minister or of a local authority under subsection *six* of section *twenty* of this Act: 10

Provided that any such provision may be amended 15 by or by direction of the Board on appeal under section *twenty-five* of this Act.

(3) The Council shall not give any decision, and a committee thereof shall not make any recommendation in connection with any objection, until the hearing of all 20 objections in connection with the scheme has been completed.

(4) The procedure for the institution, hearing, and determination of proceedings under this section shall be in accordance with regulations under this Act, and, 25 in the absence of any such regulations or so far as any such regulations do not extend, the Council shall determine the procedure.

Appeals.

25. (1) Where the Council wholly or partly disallows any objection to any district scheme that has not become 30 operative, or to any variation of any such scheme, the maker of the objection may within two months after the disallowance appeal to the Board against the disallowance.

New

(2) Where the Council wishes to vary a provision made in a scheme to meet any requirement of the Minister or of a local authority under subsection *six* of section *twenty* of this Act, the Council may, within 35 two months after the date on which the Minister or local authority or his or its representative at any hearing of objections to the scheme has refused to approve the 40 variation, appeal to the Board to vary the provision.

New

(3) Where, after any decision has been given by the Board in respect of any appeal under this Act or by the Town Planning Board in respect of any objection under the Town Planning Act 1926, new and important evidence becomes available or there has been a change of circumstances that in either case might have 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) 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.

26. No district scheme prepared by any Council shall be capable of being approved until the Mayor in the case of the Council of a borough, or the Chairman in the case of any other Council, has by statutory declaration certified in the form prescribed by regulations made under this Act that all of the requirements of this Act and of the regulations made thereunder, and all the requirements of any decision of the Board relating to the scheme, have been complied with in respect of the scheme or section thereof that is proposed to be approved.

Certificate of compliance.

27. (1) Where any proposed district scheme has been publicly notified, and public notification has been made of all subsequent variations of the scheme which are required by section *twenty-one* of this Act to be publicly notified, and the time for making objections in respect of the scheme and variations and all appeals against disallowances of any such objections has expired, the Council may—

Approval of district scheme.
Cf. 1926, No. 52, ss. 16, 17, 21

(a) Approve the scheme (including variations thereof, if any) if all objections, appeals, and arbitrations in respect of the scheme and variations have been disposed of:

(b) With the approval of the Minister and subject to such conditions as he may prescribe, approve any section of the scheme (including variations thereof, if any) if all objections, appeals, and arbitrations relating to that section and variations thereof have been disposed of.

(2) In any such case the Council shall signify its approval by affixing to the scheme or section its seal and shall publicly notify that the scheme or section has been approved and the date on which it is to become operative which date shall not be earlier than the date of the public notification of the approval. 5

(3) A copy of the approved scheme shall be made available for convenient public inspection at the office of the Council, and at every public library and branch thereof within the area to which the scheme relates, two such copies shall be lodged with the District Commissioner of Works for the area to which the scheme relates, and one such copy shall be lodged with— 10

(a) The District Land Registrar for each land registration district in which land affected by the scheme is situated; and 15

(b) The Chief Surveyor of each land district in which land affected by the scheme is situated.

Operative district scheme may be cancelled or modified.
Cf. 1926, No. 52, s. 23

28. (1) Any Council may from time to time of its own motion cancel any operative district scheme approved by it or elaborate any of the provisions of the scheme or enlarge the scheme or modify or alter any of the details of the scheme or substitute a new district scheme for the operative district scheme: 20

New

Provided that no operative district scheme shall be cancelled unless it is replaced at the same time by another operative district scheme. 25

(2) The provisions of this Act as to the preparation, recommendation, and approval of district schemes, and as to objections, appeals, arbitrations, and consents in connection therewith, and the provisions of subsection *three* of section *twenty-seven* of this Act, shall apply to every such cancellation, elaboration, enlargement, modification, alteration, and substitution as if it were a district scheme. 30 35

District schemes to be reviewed every five years.

29. (1) Every district scheme shall **from time to time** become due for review as soon as any provision thereof has been operative under this Act for five years without confirmation under this section and without variation; and shall remain due for review until the scheme has been confirmed under this section or until all its provisions have sooner ceased to be operative or been varied: 40

New

5 Provided that a district scheme which has been finally approved by the Town Planning Board under the Town Planning Act 1926 and becomes operative under this Act shall become due for review for the first time at the date of the commencement of this Act or on the date five years after the date of the final approval of the scheme as aforesaid, whichever is the later.

10 (2) As soon as possible after any district scheme has become due for review the Council which approved it shall proceed to review it, and shall [*at least once*] give public notification as provided in subsection *two* of section *two* of this Act that the scheme is due for review
15 and of any changes proposed to be made therein:

(3) At any time while any district scheme remains due for review, **the Minister and** every person, Authority, local authority, and **joint** committee shall have the same rights to object to the scheme, and to be heard in support
20 of or opposition to objections, and to appeal against the disallowance of objections, as he would have if the scheme had not been approved:

Provided that no objections to the scheme may be made after the expiration of three months from the
25 date of the giving of the last public notification under subsection *two* of this section unless the Council which approved the scheme fails, within one year after that date, to confirm it except so far as the Council cancels or varies it in accordance with this Act.

30 (4) At any time after the expiration of three months after the date of the public notification under subsection *two* of this section, if the time for appeals against all disallowances of objections made in proper time has expired, and if all requests, appeals, and arbitrations
35 relating to the review of the scheme have been disposed of, the Council which approved the scheme may confirm it except so far as the Council cancels or varies it in accordance with this Act.

(5) Every district scheme which is for the time being
40 due for review shall continue to be operative except so far as it is cancelled or varied by the Council or by the Board on an appeal under this section. Where the scheme is varied by the Board on any such appeal, the variation shall become part of the scheme and shall be
45 operative accordingly.

(6) Particulars of every confirmation, cancellation, and variation of 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, cancellation, or variation shall be lodged with the public libraries and branches thereof where the scheme is required to be made available and with persons with whom the scheme is required to be lodged under subsection *three* of section *twenty-seven* of this Act. 5 10

Councils may
unite for
combined
scheme.
Cf. 1926,
No. 52, s. 28

30. (1) Notwithstanding anything in this Act, two or more Councils which are of opinion that their interests may be served by a combined scheme may resolve to unite for the purpose of preparing a combined scheme making provision within the whole or a defined portion 15 of the total area under their several jurisdictions, for all or any of the matters referred to in the *Second* Schedule to this Act.

(2) In any such case each Council concerned shall **from time to time** by resolution appoint one or more 20 **[representatives] of its members** to form a joint committee, and, subject to the provisions of this section, the joint committee so appointed shall be the responsible authority within the combined area for the matters for which the combined scheme is to provide. **Every member 25 of a joint committee shall hold office at the pleasure of the Council he represents, but not longer at any one time than the current term of the Council he represents.**

(3) Every such joint committee shall consist of not less than three nor more than fifteen members, and in the 30 event of any dispute as to the number of representatives to be appointed by any Council the matter shall be determined by the Minister.

(4) On the appointment and approval of a joint committee under this section the obligation of each of 35 the several combining Councils to provide a scheme in respect of the matters upon which they have resolved to combine shall be consequentially suspended, and it shall instead be the duty of the joint committee to provide in respect of those matters a combined scheme for the whole 40 of that area.

(5) For all purposes in connection with any combined scheme except the certification and approval of the scheme, the provisions of this Act shall apply as if the joint committee were the Council of each district of the united area.

(6) Every combined scheme prepared pursuant to this section shall be subject to approval by the Council of each district in which it is intended to become operative, and, on such approval in accordance with sections *twenty-six* and *twenty-seven* of this Act, shall, in respect of the matters to which it relates and so much of the area to which it relates as is within the jurisdiction of the Council by which it is approved, be the district scheme of that Council.

(7) The expenses of combining and of preparing and operating any combined scheme under this section shall be borne and paid as the local authorities concerned may from time to time agree; and if they are unable to agree the Minister after such inquiry as he thinks proper to direct, may apportion the expenses.

31. (1) Where any Council has not fulfilled its obligation to provide a district scheme, the Minister may at any time (by notice in writing) require the Council to do so within a period, being not less than six months, to be specified in the notice.

Failure to
comply with
Act.
Cf. 1948,
No. 59, s. 7

(2) If the Council fails or neglects to comply with the notice, the Minister, on behalf of the Council, may cause a scheme to be prepared and submitted to the Council for approval and 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 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 subsection *two* of this section shall be recoverable from the Council as a debt due to the Crown or may be deducted from any moneys payable by the Council to the Crown.

Operation
of district
schemes.
Cf. 1926,
No. 52, s. 22

32. (1) When a district scheme has become operative it shall be the duty of the Council, and of every other public body and local authority having jurisdiction within the district in respect of the subject matters of the scheme, to observe, and (to the extent of its authority) to enforce the observance of, the requirements of the scheme; and, save with the consent in writing of the **[Minister] Board**, neither the Council nor any other such public body or local authority nor any person shall thereafter undertake or permit any new work or any reconstruction, alteration, or modification of any existing work if the new work or reconstruction or alteration or modification does not conform to the requirements of the scheme, or would tend to prevent or delay the effective operation of the scheme: 5 10 15

New

Provided that no consent may be granted under this section except in accordance with regulations made under this Act, and any consent so given may be subject to such conditions as the Board may impose. 20

Struck out

(2) No plan of subdivision of land shall be capable of being approved unless it complies with the requirements, as they stand at the time of the approval of—

New

(2) Except with the approval of the Board in accordance with subsection *one* of this section, no plan of subdivision of land shall be capable of being approved unless the Council certifies that it complies with the requirements, as they stand at the time of that approval, of— 25 30

(a) Every operative district scheme relating to the area in which the land is situated; and

(b) Every other existing district scheme relating to that area which has been first recommended by the Council within two years before the date of the **application for that** approval, and has been publicly notified. 35

(3) Every provision of an operative district scheme shall have the force and effect of a regulation made under this Act. 40

33. The provisions of the Land Subdivision in Counties Act 1946 and of sections one hundred and twenty-five and one hundred and twenty-eight of the Public Works Act 1928 and of any other Act as to the
 5 minimum width of roads and streets shall be deemed not to be contravened if they are of the minimum width specified in an operative district scheme:

10 Provided that no district scheme shall provide for any new road or street of a width less than sixty-six feet in an area intended under the scheme to be used for residential, commercial, or industrial purposes unless the Council first passes a special [*resolution*] order confirming that in the opinion of the Council the width
 15 as a whole, be sufficient for [*all time*] the period of the scheme for all normal road or street uses and for amenity purposes in relation to adjoining properties:

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

20 34. (1) In any case where any operative district scheme shows, whether in the text thereof or in any map or plan relating thereto, any proposed new highway or any proposed public reserve or designated open space or public work, the Council concerned may
 25 (whether application in that behalf is made under this Act or any other Act or not) absolutely refuse its consent to, or prohibit, the erection or completion of any building or the carrying out of any work of a [*permanent character*] substantial nature on any land forming part
 30 of the site of the proposed highway, public reserve, or designated open space, or public work, or the Council may, subject to the provisions of this section and notwithstanding anything contained in this Act, give its consent to the erection of any such building or the carrying out
 35 of any such work as aforesaid either absolutely or subject to such conditions as the Council may think fit to impose.

Road and street widths.
 Cf. 1926, No. 52, s. 22 (3)
 1946, No. 23
 See Reprint of Statutes, Vol. VII, p. 622

Prohibition of erection of buildings or works on sites of proposed highways, etc.
 Cf. 1941, No. 26, s. 77

(2) At least one month before granting any such consent as aforesaid the Council shall—

- (a) Twice give notice of its intention so to do by advertisement in a newspaper circulating in the district, with an interval of not less than seven days or more than fourteen days between the two notices; and 5
- (b) Supply a copy of the notice to the District Commissioner of Works.

(3) **The Minister and the Regional Planning Authority and every local authority and every owner or occupier of property within the area covered by the district scheme shall have a right of objection to the erection of the building or the carrying out of the work, and may at any time within one month after the first notification give notice in writing to the Council of his objection and of the grounds thereof.** 10 15

(4) Before arriving at a decision the Council shall take into account every objection submitted to it as aforesaid and shall afford every objector an opportunity to be heard at a meeting of the Council. 20

(5) The objector, or any other owner or occupier of property within the area covered by the district scheme who is aggrieved by any decision of the Council under this section, may appeal to the Board against that decision. 25

Offences and penalties in respect of failure to comply with district scheme. Cf. 1941, No. 26, s. 76

35. (1) For the purposes of this section, the term “existing use within the meaning of this section”, in relation to any [building or land, means a use of that building or land for any purpose] land or building, means a use of that land or building for any purpose that does not require substantial reconstruction or alteration or addition thereto and that is of the same character as that for which it was last used before the date on which the district scheme became operative or of a similar character, or, in the case of a newly erected building which has not been used before that date, a use for any purpose for which [it was designed] approval for its erection was given by the Council: 30 35

Provided that, unless the Council consents to an extension of the period, if at any time after the date on which the district scheme came into force the existing use 40

within the meaning of this section of a building is discontinued for a period of six months, no use of that building at any subsequent date shall be deemed to be an existing use within the meaning of this section.

5 (2) Subject to the provisions of this section, any person who, after a district scheme has become operative, uses any building or land in a manner not in conformity with the scheme or who fails to comply with any provision of the scheme commits an offence and shall
10 be 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.

(3) The Council in whose district the offence has been
15 committed may, in respect of a continuing offence, whether or not a conviction has been entered in respect thereof, apply to the Supreme Court **or (where the matter is within the jurisdiction of a Magistrate's Court) to a Magistrate's Court** for an injunction to restrain the
20 continuance of the offence.

(4) Nothing in this section shall apply in relation to an existing use within the meaning of this section of any building or land or in relation to anything done pursuant to a consent given under section *thirty-four* of
25 this Act.

36. (1) For the purposes of this section—

“ Existing use within the meaning of this section,”
in relation to any [*building or land, means a use of that building or land for any purpose*]
30 **land or building, means a use of that land or building for any purpose that does not require substantial reconstruction or alteration or addition thereto and that is** of the same character as that for which it was last used before the date on which the district scheme became operative or of a similar character:

35 “ Owner ”, in relation to any land, means the person who is for the time being entitled to the rack rent thereof, or who would be so entitled
40 if the land were let to a tenant at a rack rent.

(2) Nothing in this section shall apply in relation to an existing use within the meaning of this section of any building or land or in relation to anything done pursuant to a consent given under section *thirty-four* of
45 this Act.

Additional powers for enforcement of district schemes. Cf. 1948, No. 59, s. 6

(3) Subject to the provisions of this section, in any case where a district scheme has become operative and it appears to the Council that any work has been done or any building has been erected or any material or thing has been placed on any land in its district in contravention of any of the provisions of the scheme, the Council may cause to be served on the owner and on the occupier of the land a notice requiring such steps as may be specified in the notice to be taken for the purpose of restoring the land to its condition before the work was done or, as the case may require, before the building was erected or the material or thing was placed on the land, and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any building or work, or the removal of any material or thing. The notice shall specify a period (being a period of not less than [twenty-one] **twenty-eight** days after the service of the notice) within which the notice shall be complied with, and shall state that if the requirements of the notice are not complied with the Council may apply to the Supreme Court **or (where the matter is within the jurisdiction of a Magistrate's Court) to a Magistrate's Court** for an order under this section.

(4) A copy of the notice shall be served on all persons having any estate or interest in the land, so far as those persons are known to the Council.

(5) If within the period specified in the notice, or within such further time as the Council may in its discretion allow, all the requirements of the notice are not complied with, the Council may apply to the Supreme Court for an order authorizing the Council, by its officers, agents, or employees, to enter on the land and do or complete the doing of any act or thing required by the notice, and to remove any material or thing from the land for the purpose aforesaid. For the purpose of hearing and determining the application the Court shall, subject to the provisions of subsection *six* of this section, have all the powers vested in it in its ordinary civil jurisdiction.

(6) On hearing any such application as aforesaid the Court, if satisfied that the notice was duly given, and that the work was done, or, as the case may be, the building was erected or the material or thing was placed on the land in contravention of the scheme, and that the

consent of the Council was not obtained under section *thirty-four* of this Act, may if it thinks fit make such order as may be necessary to enable the [*local authority*] **Council** to do any of the things specified in subsection 5 *five* of this section:

Provided that if the Court is satisfied that the requirements of the notice exceed what is reasonably necessary for the purpose of restoring the land to the condition referred to in subsection *three* of this section, 10 it may vary the notice in such manner as it thinks proper for that purpose.

(7) The Council may recover as a debt due to it from the person who is then the owner of the land any expenses reasonably incurred by the Council in doing or completing any act or thing, or removing any material or 15 thing, pursuant to any order of the Court under this section.

(8) Where pursuant to any such order as aforesaid the Council removes any material or thing from any 20 land, the person to whom the material or thing belongs may claim it and take it away on payment to the Council of the amount of any expenses recoverable under subsection *seven* of this section. If that person does not 25 so claim and take away any such material or thing, not being refuse, within seven days after the removal thereof by the Council, the Council may sell or otherwise dispose of it, and in any such case shall pay the net proceeds (if any) of the sale or disposition to that person, after 30 deducting therefrom the amount of such expenses as aforesaid.

(9) Any expenses reasonably incurred by the owner or occupier of any land for the purpose of complying with a notice served on him under subsection *three* of this section, and any sums paid by the owner of any land 35 under subsection *seven* of this section in respect of the expenses of the Council, shall be deemed to be incurred or paid for the use and at the request of the person by whom the work was done or, as the case may be, the building erected or the material or thing placed on the 40 land in contravention of the scheme, and shall be recoverable accordingly.

(10) If on an application made by the owner of any land to a Magistrate it appears to the Magistrate that the occupier of the land prevents the owner from doing

any act or thing required for the purposes of complying with a notice under this section, the Magistrate may order the occupier to permit the doing of that act or thing.

(11) The provisions of this section are in addition to and not in derogation of the provisions of section *thirty-five* of this Act. 5

37. (1) In this section, unless the context otherwise requires,—

“Detrimental work” means— 10

(a) Any structure, excavation, or other work that would be a physical obstacle to any work likely to be constructed in any area—

(i) Under any proposed district scheme for the area; or 15

(ii) In accordance with the town and country planning principles likely to be embodied in any undisclosed district scheme for the area: 20

(b) Any structure, excavation, or other work that detracts from any amenities of the neighbourhood which are to be provided or preserved by or under any proposed district scheme or are likely to be provided or preserved by or under any undisclosed district scheme: 25

Struck out

(c) Any subdivision of land to which the Land Subdivision in Counties Act 1946 does not apply: 30

New

(c) Any subdivision of land that is not in conformity with any proposed district scheme for the area or the town and country planning principles likely to be embodied in any undisclosed district scheme for the area: 35

(d) Any change of use of any land or building that detracts or is likely to detract from any amenities of the neighbourhood that are to be provided or preserved by or under any proposed district scheme: 40

Council may delay erection of buildings, etc., likely to contravene an undisclosed or proposed district scheme.

Cf. 1926, No. 52, s. 34; 1929, No. 28, s. 5

1946, No. 23

“ Proposed district scheme ”, in relation to any area, means any district scheme or section of a district scheme for the time being existing for the area, which scheme or section has been recommended by the Council and publicly notified but has not become operative:

“ Undisclosed district scheme ”, in relation to any area, means any district scheme or section of a district scheme which is required under this Act to be prepared for the area but has not become operative or been publicly notified.

(2) Any Council may at any time, absolutely or conditionally, refuse its consent to the carrying out of any detrimental work within its district, or may definitely prohibit the carrying out of any such work.

(3) Every refusal or prohibition under section thirty-four of the Town Planning Act 1926 which is subsisting at the commencement of this Act shall enure as if it had been made under this section, but shall not have effect for more than two years after the date of the commencement of this Act unless the period of the refusal or prohibition is extended under subsection *six* of this section. Where any such refusal or prohibition ceases to have effect as aforesaid, it shall not be repeated under this section.

(4) No refusal or prohibition made under subsection *two* of this section shall have effect for more than two years after it is made unless the period of the refusal or prohibition is extended pursuant to subsection *six* of this section. Where any such refusal or prohibition ceases to have effect as aforesaid, it shall not be repeated under this section.

(5) No refusal or prohibition under this section or under section thirty-four of the Town Planning Act 1926 shall have any effect after the complete district scheme has become operative for the area to which the refusal or prohibition relates:

Provided that nothing in this subsection shall restrict the effect of any operative district scheme.

(6) Where, in the opinion of the Minister, the Council has during the relevant period specified in subsection *three* or subsection *four* of this section made

marked progress towards making operative any district scheme which any such building or work would contravene, but for reasons which the Minister deems sufficient there is temporary delay in making the scheme operative, the Minister may from time to time by notice publicly notified extend, for such period as he thinks fit, the period of effectiveness of all or any of the refusals and prohibitions made by the Council in the interests of the scheme. 5

(7) The provisions of section *thirty-six* of this Act shall apply to the carrying out of any work that is the subject of any refusal or prohibition under this section, and to the carrying out of any work to which consent subject to conditions has been given under this section otherwise than in accordance with those conditions, as if the carrying out were in contravention of an operative district scheme. 10 15

(8) Where, before any district scheme becomes operative, the Council has refused to issue to the owner or occupier of any land a permit or consent under this Act for the erection of a new building or for alterations to an existing building or for the formation or construction of any road or street or access way or service lane or private way, or for the subdivision of land for the purpose of sale on the ground that the proposed building work or subdivision would be in contravention of the provisions of the scheme, the owner or occupier may within two months after he receives notice of the decision appeal to the Board against the decision of the Council to refuse the permit or consent. 20 25 30

(9) Where any refusal or prohibition has been made under this section or under section *thirty-four* of the Town Planning Act 1926 and thereafter the relevant district scheme or any section or variation thereof becomes operative or is recommended by the Council and publicly notified, any person injuriously affected by the refusal or prohibition may apply in writing to the Council to withdraw it on the ground that the refusal or prohibition is no longer necessary for the protection of the district scheme for the area affected thereby; and if the Council declines to withdraw the refusal or prohibition or fails to do so within one month after the receipt by it of the written application, the person injuriously affected may appeal to the Board against the determination or failure of the Council. 35 40

(10) Any person injuriously affected by any other refusal or prohibition of a Council under this section or under section thirty-four of the Town Planning Act 1926 may appeal in respect of it to the Board.

5 (11) While any Council is exempted from any part of the obligations imposed by section *eighteen* of this Act, this section shall not apply to any subject matter or area affected by the exemption.

New

10 (12) Nothing in section *thirty* of this Act shall entitle a joint committee to exercise the powers given to any Council by this section, and each Council that is a party to a joint scheme shall at all times have and
15 may from time to time exercise within its district the powers conferred on Councils by this section.

PART III

MISCELLANEOUS

Appeals

- 20 38. (1) There is hereby established a Board to be called the Town and Country Planning Appeal Board. Constitution of Town and Country Planning Appeal Board.
- (2) The Board shall consist of the following persons:
- (a) One person, being a barrister **or solicitor** of the Supreme Court of New Zealand, who shall be appointed as Chairman:
- 25 (b) One person who shall be nominated by the executive committee of the Municipal Association of New Zealand Incorporated:
- (c) One person who shall be nominated by the executive committee of the New Zealand
30 Counties Association Incorporated:
- (d) One other person.
- (3) Every member of the Board shall be appointed by the Governor-General on the recommendation of the Minister for a period of three years. Any such member
35 may from time to time be reappointed, or may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed
40 to the Minister.

(4) If any member of the Board dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed. 5

(5) Unless he sooner vacates his office as provided in subsection *four* of this section, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired. 10

(6) The Governor-General on the recommendation of the Minister may from time to time appoint a member of the Board as Deputy Chairman thereof.

(7) The Minister may from time to time appoint some fit person to be deputy of any member of the Board at any meeting of the Board while the member is absent from the meeting. While the deputy is so acting he shall be deemed to be a member of the Board. A deputy of the member who is Chairman of the Board shall not be Chairman or Deputy Chairman by reason only of his appointment under this subsection. 15 20

(8) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(9) The Board shall have an official seal and every Court shall take judicial notice thereof. 25

(10) No member of the Appeal Board shall be deemed to be interested in any appeal or matter before the Board solely on the ground that he is a ratepayer.

Procedure of Board.
See Reprint of Statutes, Vol. I, p. 1036

39. (1) For the purposes of any appeal to the Board the provisions of the Commissions of Inquiry Act 1908 shall, so far as they are applicable and with the necessary modifications, apply as if the Board were a Commission of Inquiry appointed under that Act. 30

(2) The presence of the Chairman or Deputy Chairman and of at least two other members shall be necessary to constitute a sitting of the Board. 35

(3) The decision of a majority of the members present at a sitting of the Board shall be the decision of the Board. If the said members are equally divided in opinion, the decision of the Chairman shall be the decision of the Board. 40

(4) Except as provided in this Act or as may be provided by regulations under this Act, the Board may regulate its own procedure (including procedure in respect of appeals) in such manner as it thinks fit.

(5) There shall be payable in connection with any appeal to the Board such fees as may be prescribed by regulations made under this Act.

(6) The Board may award such costs as it deems just either in favour of or against the party making any appeal.

(7) The Board may hear any appeal separately or may hear two or more appeals which relate to the same aspect of a scheme together.

(8) In addition to all other powers conferred upon it by this Act or otherwise, the Board shall have power to call in evidence upon any appeal any person who is experienced in regional or district planning. Every person so called shall be subject to cross-examination by any party to the appeal, and shall be paid such fees and expenses in respect of his attendance as the Board may allow. All fees and expenses so paid shall form part of the costs of the appeal.

40. There shall be paid, out of moneys appropriated by Parliament for the purpose, to the members of the Board remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Board shall be a statutory Board for the purposes of that Act.

41. (1) Every appeal made under the provisions of this Act shall be heard by the Board as soon as practicable after the date of the lodging thereof.

(2) At the hearing by the Board of any appeal, the Minister or any party or any public body or local authority or **Regional Planning Authority** that is affected, or the owner of any land that is [*directly*] affected, may be represented by counsel or otherwise, and may call evidence on any matter that should be taken into account in determining the appeal.

Allowances and travelling expenses of members of Board.
1951, No. 79

Determination of appeals.
Cf. 1926, No. 52, s. 20

(3) On hearing any appeal, the Board may vary, cancel, or reverse the scheme, decision, or determination to which the appeal relates, or may confirm it, either absolutely or subject to such conditions and modifications as the Board deems just, and the decision of the Board shall be final and conclusive: 5

Provided that where the Board considers that a reasonable case has been presented for—

(a) Varying the provisions (including alterations) of any unapproved district scheme; or 10

(b) Varying, cancelling, reversing, or imposing conditions or modifications in respect of any unapproved cancellation or elaboration or enlargement of an operative district scheme, or in respect of any unapproved substitution of a new district scheme for an operative district scheme— 15

it may reserve its decision and—

(c) Indicate the manner in which those who wish to object may do so: 20

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

(e) Require the Council to give public notice of the changes which the Board contemplates making and of the opportunities being given to object and be heard. 25

New

(4) Unless expressly provided in any other Act in respect of any appeal, application, dispute, or matter under that Act, all the provisions of this Part of this Act relating to appeals shall apply to every appeal, application, dispute, or matter to be brought before the Board under this or any other Act. 30

Matters may be determined by arbitration instead of by the Board.
See Reprint of Statutes, Vol. I, p. 346

42. If all the local authorities, Regional Planning Authorities, and joint committees concerned are unable to agree upon any matter on which this Act gives any of them a right of appeal to the Board, they may by agreement have the matter determined by arbitration in the manner set forth in the Arbitration Act 1908, and where any such agreement has been made, no appeal to the Board by any party to the arbitration shall thereafter lie in respect of the decision reached by arbitration. 40

Compensation

43. (1) Every person having any estate or interest in any land taken for any purpose authorized by section *forty-six* of this Act or otherwise for the purposes of an operative district scheme, or in any land, buildings, or other improvements injuriously affected by the operation of any such scheme or of any refusal or prohibition which is made or enures under section *thirty-seven* of this Act, shall, subject to the provisions of this section, be entitled to full compensation for all loss thereby sustained by him.

(2) Except as otherwise provided in this Act, claims for compensation under this section shall be made and determined in accordance with the Public Works Act 1928 in respect of lands taken under this Act, or in respect of damage done from the exercise of any powers conferred by this Act.

Persons injuriously affected may claim compensation. Cf. 1926, No. 52, s. 29; 1941, No. 26, s. 78; 1945, No. 40, s. 91; 1948, No. 59, s. 5

See Reprint of Statutes, Vol. VII, p. 622

New

(2A) Where compensation is payable in respect of zoning or of the exercise of any power under section *thirty-seven* of this Act, it shall be assessed and paid as if the restrictions thereby imposed were the taking under the Public Works Act 1928 of a corresponding interest in the land and, if the Council limits the period of the restriction, as if the interest were taken for that period, but otherwise as if the interest were taken permanently.

See Reprint of Statutes, Vol. VII, p. 622

(2B) Where the claim is in respect of a provision in a scheme made to meet a requirement of the Minister or of any local authority other than the Council, the claim shall be made and determined as a claim against the Minister or the local authority, as the case may be, and no claim shall lie against the Council.

(3) Compensation shall not be payable under this section in any of the following cases:

(a) In respect of the operation of any provision in a district scheme or in respect of the operation of any refusal or prohibition which is made or enures under section *thirty-seven* of this Act if the provision, refusal, or prohibition could have been made and enforced without liability to pay compensation by any local authority or public authority independently of this Act:

- (b) In respect of any provision of a district scheme **limiting the number of buildings that may be erected in any area** or regulating the relationship of buildings to the land on which they are to be erected or regulating the height or the floor space of buildings in relation to the area of their sites, or the design or external appearance of or space about buildings: 5
- (c) In respect of any building commenced or any contract made or other thing done **in contravention** of any district scheme after that scheme has become operative 10

New

or in contravention of any refusal or prohibition that is made or enures under section *thirty-seven* of this Act or in contravention of any decision of the Board: 15

- (d) By reason merely that any district scheme shows, whether in the text thereof or in any map or plan relating thereto,— 20
- (i) Any proposed new highway, any proposed street widening, or any proposal to close a highway; or
- (ii) Any proposed public reserve or open space. 25

(4) Compensation shall [*not*] be payable under this section in respect of the operation of any provision in any operative district scheme regulating the use of buildings or land by prescribing areas to be used exclusively or principally for specified purposes or classes of purposes 30

New

or in respect of the operation of any refusal or prohibition that is made or enures under section *thirty-seven* of this Act notwithstanding anything in subsection *three* of this section, but only in cases where the claimant or the person through whom he claims has exercised the rights of objection and appeal conferred by this Act and 40

Struck out

Provided that compensation shall be payable to the owner and the occupier of the land or building affected by any such provision of an operative district scheme if

5 a claim for compensation is made within twelve months after the date on which the provision becomes operative and *[if]* the owner or occupier shows—

10 (a) That the provision deprives him of the right to continue to use the land or building for the purpose for which it is already used, and that that use does not detract from the amenities of the neighbourhood (whether or not an injunction would lie to prevent that use); or

15 (b) That the provision, **refusal, or prohibition** deprives him of the right to change from the existing use of the land or building to any other use which would not do any of the following things—

20 (i) **Detract from the amenities of the neighbourhood (whether or not an injunction would lie to prevent that other use);** or

25 (ii) Cause demand to be made on the Crown or any local authority for an extension that is not in the economic interests of the region **or locality** of any public service or cause existing or proposed public services to be uneconomically used; or

30 (iii) Cause an extension that is not in the economic interests of the region **or locality** of the subdivision into lots of less than ten acres of land along existing highways *[or of land that is better suited for farming]*; or

35 (iv) Cause an extension that is not in the economic interests of the region **or locality** of industrial **or commercial** development along existing *[highways]* **roads or streets**:

Provided also that compensation shall not be payable in any case where the provision, **prohibition, or refusal** deprives the owner or occupier of the right to change from the existing use of the land or building to any other use for which it is not suitable: 5

Provided further that the amount of compensation payable under this subsection shall be assessed as if no restriction upon use of any **other** land had been imposed by the scheme or by any operative district scheme affecting adjacent land. 10

(5) Nothing in this section shall deprive any person of any right to compensation that he may have independently of this Act.

(6) Where a person would be entitled to claim compensation in respect of any matter or thing under this Act and also under any other enactment, he shall not be entitled to receive compensation both under this Act and that other enactment, nor to receive any greater compensation under this Act than he would be entitled to receive under that other enactment. 15 20

New

(7) Where under this section compensation has been paid by the Minister or any local authority in respect of any restriction, prohibition, or refusal affecting any land or building, the Minister or local authority (as the case may be) may lodge with the appropriate District Land Registrar or Registrar of Deeds a certificate to that effect, and that Registrar shall on payment of the proper fee, deposit the certificate in his office, and register against the title of the land affected thereby a memorial referring to the certificate. If at any time during the period of the restriction, prohibition, or refusal, the Minister or the local authority or (on an appeal) the Board decides that the restriction, prohibition, or refusal should be removed or cancelled in respect of the whole or any part of that land, the increase (if any) of the value of that land by reason of the removal or cancellation shall be assessed by agreement between the parties or, failing agreement by the Land Valuation Court, on the same basis as compensation in respect of the imposition 25 30 35 40

New

of a like restriction, prohibition, or refusal, and the sum so assessed shall be paid by the owner or occupier to the Minister or local authority, as the case may be, before the removal or cancellation shall become operative. On receiving any such payment the Minister or the local authority shall notify the Registrar of the payment and of the land to which it relates and the Registrar shall forthwith cancel the memorial registered as aforesaid in respect of that land; and the removal or cancellation shall become operative in respect of the land to which the payment relates upon the notification to the Registrar as aforesaid. The Registrar may cancel any such memorial at any time after the expiry of the period to which it relates.

44. (1) Any Council may at any time within one month after the date of an award of compensation under this Act give notice to the claimant of its intention to withdraw or modify all or any of the provisions of the district scheme or of the refusal or prohibition which gave rise to the claim for compensation.

(2) When any such notice has been given, the Council shall, within three months from the date of the notice, proceed to vary its district scheme in accordance with section *twenty-eight* of this Act or to withdraw or modify the refusal or prohibition, and upon the varying scheme as approved (with or without modifications) becoming operative or the withdrawal or modification of the refusal or prohibition, and upon the payment by the Council of the claimant's costs awarded by the Compensation Court, the award of the Court shall be discharged, without prejudice, however, to the right of the claimant to make a further claim for compensation under section *forty-three* of this Act in respect of the scheme as varied or the refusal or prohibition as it subsists.

(3) No award of compensation under this Act in respect of the injurious affection of any land, buildings, or other improvements, or in respect of any such refusal or prohibition, shall be enforceable,—

(a) If notice has been given by the Council under subsection *one* of this section, until after the expiration of three months from the giving of the notice; or

Power to withdraw or modify any provision of a scheme after award of compensation.

Cf. 1940, No. 18, s. 54; 1945, No. 40, s. 92

- (b) If within that period (in a case where a district scheme gave rise to the claim for compensation) a varying scheme is recommended by resolution of the Council in accordance with section *twenty-eight* of this Act, until the scheme has either become operative or been disapproved or abandoned. 5

General

Borrowing powers.
Cf. 1926, No. 52, s. 4; 1940, No. 18, s. 55
See Reprint of Statutes, Vol. V, p. 360

45. (1) Any work required to be done by any local authority or local authorities within the meaning of the Local Bodies' Loans Act 1926 for the purpose of giving effect to any of the requirements of an operative regional planning scheme or an operative district scheme shall be deemed to be a public work within the meaning of the Local Bodies' Loans Act 1926, and loans for the purpose may be raised under and subject to the provisions of that Act accordingly. 10 15

(2) Without limiting the foregoing provisions of this Act, it is hereby declared that any local authority within the meaning of the Local Bodies' Loans Act 1926 may raise a special loan under that Act for the purpose of meeting any requirement of this Act or any obligation under this Act or any claim for compensation for which the local authority is or may become liable under any of the provisions of this Act. 20 25

Power to take land and to require land to be taken.

Cf. 1941, No. 26, s. 79; 1948, No. 59, s. 8
See Reprint of Statutes, Vol. VII, p. 622

46. (1) In addition to any power it may have to take land for any public work which it is authorized to undertake, the Council concerned may, while a district scheme is operative, take, purchase, or otherwise acquire under the Public Works Act 1928 any land in its district if in accordance with the scheme it is necessary or expedient to do so for the proper development or use of the land or for the improvement of areas that are too closely subdivided or are occupied by or appurtenant to any decadent building or for the purpose of terminating any use of any land or building that does not conform to the scheme or for the provision or preservation of amenities. 30 35

(2) Except as provided in subsection *three* of this section, nothing in any regional planning scheme or district scheme shall impose on any local authority any obligation to acquire any land. [*which it is proposed shall become a highway, or a public reserve, or an open space.*] 40

(3) In any case where the owner or occupier of any land or building so requests in writing, the Board may, in its finding on any appeal before it or on any application made to it in that behalf, order that the **Crown** or the local authority responsible for the work for which the land is required shall within three months thereafter take under the Public Works Act 1928 for the purposes of the district scheme his estate or interest in the land if—

See Reprint
of Statutes,
Vol. VII, p. 622

10 (a) The Board, on an appeal under subsection *five*
of section *thirty-four* of this Act or subsection
eight of section *thirty-seven* of this Act,
confirms that any permit or consent to which
the subsection applies should not be granted
15 on the ground that the land should be used
for a public work provided for in the scheme;
or

(b) The scheme will prevent future use of the land
or building for every purpose consonant with
the vicinity for which the owner or occupier,
but for the scheme, could lawfully have used
it without detracting from the amenities of
the neighbourhood:

25 Provided that the amount of compensation
payable for any land taken under this para-
graph shall be assessed as if no restriction
upon use of any **other** land had been imposed
by the scheme or by any scheme affecting
adjacent land.

30 (4) In determining whether to make any order that
the land be taken under subsection *three* of this section
the Board shall have regard to the imminence or other-
wise of any change in the use of the said land and to
any obligation apart from this Act upon the owner,
35 without compensation, to provide or maintain the same
or another road, street, access way, service lane, reserve,
or designated open space, or to suffer similar restriction
upon use.

40 (5) The Council may, for the purposes of any
operative district scheme, carry out the subdivision or
regrouping of any land acquired under this section, and

the improvement and development of any such land for any purpose, and erect buildings on any such land for letting or leasing or resale for industrial or commercial purposes.

(6) The Council may, for any purpose permitted by any operative district scheme for the area where the land is situated, sell, let, or lease any land so acquired, or any building or part of a building thereon, in any manner and on terms and conditions authorized by any enactment conferring selling or leasing powers on the Council:

Provided that the Council may sell, let, or lease any such land, building, or part of a building as aforesaid by private contract without public auction, public tender, or public application, but only on such terms and otherwise subject in all respects to such conditions as are prescribed by any such enactment as aforesaid.

Delegation of
powers of
Minister.

47. (1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Commissioner of Works all or any of the powers which are conferred on the Minister by this Act other than the power to delegate under this section.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Commissioner of Works may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Where the Commissioner of Works purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(5) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister, and in the event of the Commissioner of Works to whom any such delegation has

been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Commissioner of Works or, if there is no Commissioner of Works in office or if the Commissioner of Works is absent from duty, to the person

5 [for the time being directed under the Public Service Act 1912] **lawfully authorized** to act in the place of the Commissioner of Works.

See Reprint of Statutes, Vol. VII, p. 522

48. (1) Subject to the provisions of the Counties Act 1920 and the Road Boards Act 1908, any County Council may delegate to any Road Board in its district, or committee appointed under section seven of the Counties Amendment Act 1949 in connection with a county township in its district, all or any of the powers

10 in respect of the road district or county township, as the case may be, which are conferred by this Act upon the County Council.

County Council may delegate its powers to Road Board or to committee of county township.
See Reprint of Statutes, Vol. V, pp. 180, 281
1949, No. 27

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of

20 any power by the County Council.

49. (1) A notice required by this Act to be served on any person or body may be sent by registered post

25 [to] **in a letter addressed to that person or body at the last known place of abode or business of that person or body**, and where it is so sent it shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post.

Notices, etc.

(2) If any person on whom a notice is required by this Act to be served is absent from New Zealand, or if

30 his address is unknown, the notice may be sent to his agent; and, if he has no known agent, the notice shall be published in a newspaper circulating in the district.

(3) Where under this Act any document is required

35 to be deposited at any place for public inspection, that document (when so deposited) may be inspected without fee by every person who so requires at any time when the place is open to the public.

50. (1) The Governor-General may from time to

40 time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

Regulations.
Cf. 1926, No. 52, s. 35; 1929, No. 28, s. 17; 1941, No. 26, s. 80

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Regulating the procedure to be adopted with respect to—
- (i) The preparation and reviewing of regional planning schemes and district schemes, and consultation between local authorities with respect to any such matters: 5 10
 - (ii) The recommendation and approval of district schemes: 10
 - (iii) The variation and enlargement of district schemes; and the revocation of district schemes and the substitution of other district schemes therefor: 15
 - (iv) Any matters that are necessary to complete the procedure for bringing claims before the [*Compensation*] **Land Valuation** Court or appeals before the Board: 20
 - (v) Any inquiries, reports, notices, objections, appeals, or other matters required or arising in connection with the preparation or adoption or approval of district schemes, or preliminary thereto, or in relation to the carrying out of district schemes and enforcing the observance of the provisions thereof: 25
 - (vi) The invitation of all authorities that are authorized to construct public works to submit proposals for inclusion in any regional planning scheme, district scheme, or combined scheme: 30
- (b) Securing effective co-operation between local authorities and persons interested in any land affected by any scheme: 35
- (c) Prescribing methods of making applications under this Act, and forms and documents required under this Act: 40
- (d) Prescribing fees payable in respect of matters arising under this Act: 40
- (e) Prescribing standards and formulae to be included in district schemes for the regulation and control of the height and density of buildings and the provision of natural light in buildings: 45

(f) Regulating the contents, form, and mode of presentation of regional planning schemes and district schemes to ensure that reasonable standards of planning are observed and that the schemes will be effective and fully informative.

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(3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

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Amendments, Repeals, and Savings

51. (1) The enactments specified in the *Third* Schedule to this Act are hereby amended in the manner indicated in that Schedule.

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Consequential amendments.

(2) Every reference in any enactment or instrument to the Town Planning Board shall hereafter be read as a reference to the Commissioner of Works.

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52. (1) The enactments specified in the *Fourth* Schedule to this Act are hereby repealed.

Repeals and savings.

(2) The regulations specified in the *Fifth* Schedule to this Act are hereby revoked.

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(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal or revocation of any provision by this Act shall not affect any document made or any thing whatsoever done under the provisions so repealed or revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal or revocation and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

See Reprint of Statutes, Vol. VIII, p. 568

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(4) All **objections and** appeals commenced under any provision repealed by this Act shall be continued and completed,—

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(a) In cases where they have been wholly or partly heard, in all respects as if the enactments repealed by this Act continued in force:

(b) In all other cases, in all respects as if they had been commenced under this Act.

(5) All claims for compensation commenced under any provision repealed by this Act shall be continued and completed in all respects as if the enactments repealed by this Act continued in force.

(6) Anything commenced under any regulation 5
repealed by subsection *two* of this section may be continued and completed as if the regulations revoked by this Act continued in force.

Schedules.

SCHEDULES

Section 6 (1)

FIRST SCHEDULE

MATTERS TO BE DEALT WITH IN REGIONAL PLANNING SCHEMES

1. *Communications and Transport Facilities.*—Provision for all or any of the following:

- (a) Railways:
- (b) Arterial and regional traffic routes:
- (c) Public passenger service routes:
- (d) Harbours and navigable waterways:
- (e) Airports:
- (f) Other communications and transport facilities.

2. *Zoning.*—Allocation **in accordance with regulations made under this Act** of areas for—

- (a) Urban development, differentiating where possible between areas for residences, businesses, inoffensive industries, and offensive industries:
- [(b) *Agricultural development, including afforestation.*]

New

- (b) Rural development, including afforestation and industries requiring to be located in rural areas.

3. *Public Utilities:*

- (a) Land drainage, sewerage, and sewage disposal:
- (b) Water supply, including catchment areas:
- (c) Production and distribution of power and fuel:
- (d) Regional health, educational, and other facilities common to more than one district:
- (e) Other public utilities.

4. *Amenities:*

- (a) Public parks and reserves and recreational facilities:
- (b) Preservation of places of historical or archaeological interest or natural beauty:
- (c) Recommendations for the control of outdoor advertising:
- (d) Other amenities.

SECOND SCHEDULE

Section 30 (1)

MATTERS TO BE DEALT WITH IN DISTRICT SCHEMES

1. The **zoning or** definition of areas to be used exclusively or principally for specified purposes or classes of purposes.
2. The preservation of objects and places of historical interest or natural beauty.
3. The designation of reserves and proposed reserves for national, civic, cultural, and community purposes, for afforestation and water catchment purposes, for recreation grounds, ornamental gardens, parks, and children's playgrounds, and for open spaces.
4. The designation of open spaces for purposes of value to the community on land not intended to be owned by the Council.
5. Public access from place to place, car parks, transport terminals, aerodromes, and public transport systems, including their creation, establishment, closing, removal, alteration, and diversion; traffic routing; the co-ordination of street widths with land uses and population densities; [*off street loading and unloading and vehicle storage*] **off street provision for vehicles while being loaded or unloaded or standing**; the fixing of building lines in relation to highways.
6. [*Systems of*] Sewerage, drainage, and sewage and rubbish disposal.
7. [*Systems of*] Lighting and water supply.
8. Buildings, with particular reference to—
 - (a) Their position on allotment and in relation to any highway and to other buildings:
 - (b) Their density, use, character, height, and harmony in design and external appearance:
 - (c) Verandas in commercial streets:
 - (d) Open space about buildings:
 - (e) The fixing of building lines for amenity and other purposes.
9. Provision and preservation of amenities, including regulation and control of outdoor advertising displays.
10. Control of subdivision, **including restraint upon unnecessary encroachment of urban development upon land of high actual or potential value for production of food.**
11. Land subdivisional standards in relation to any permitted use.
12. Minimum site areas and dimensions in relation to uses of land and buildings.
13. Ancillary or consequential works and all other matters involving the principles of town and country planning.

THIRD SCHEDULE
CONSEQUENTIAL AMENDMENTS

Title of Act	Nature of Amendment
<p>1928, No. 21— The Public Works Act 1928 ..</p>	<p>By omitting from subsection (1) of section 132, as substituted by section 28 of the Public Works Amendment Act 1948, the words “a town planning scheme or an extra-urban planning scheme under the Town Planning Act 1926”, and substituting the words “an operative district scheme under the Town and Country Planning Act 1953”.</p>
<p>1945, No. 17— The Housing Improvement Act 1945</p>	<p>By omitting from subsection (4) of section 18 the words “the Town Planning Board”, and substituting the words “the Commissioner of Works”.</p> <p>By omitting from subsection (1) of section 21 the words “it shall obtain the approval of the Town Planning Board to its proposals as to the future use of the land”, and substituting the words “it shall prepare, approve, and make operative a district scheme within the meaning of the Town and Country Planning Act 1953 in respect of that part of its district”.</p>

FOURTH SCHEDULE

Section 52 (1)

ENACTMENTS REPEALED

- 1926, No. 52—
The Town Planning Act 1926. (Reprint of Statutes, Vol. V, p. 488.)
- 1929, No. 28—
The Town Planning Amendment Act 1929. (Reprint of Statutes, Vol. V, p. 506.)
- 1931, No. 44—
The Finance Act 1931 (No. 4): Section 47. (Reprint of Statutes, Vol. VII, p. 517.)
- 1933, No. 30—
The Municipal Corporations Act 1933: Subsection (12) of section 332.
- 1940, No. 18—
The Statutes Amendment Act 1940: Sections 53 to 55.
- 1941, No. 26—
The Statutes Amendment Act 1941: Sections 75 to 80.
- 1945, No. 40—
The Statutes Amendment Act 1945: Sections 90 to 92.
- 1948, No. 59—
The Town Planning Amendment Act 1948.
- 1951, No. 79—
The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Town Planning Board, and so much of the Second Schedule as relates to the Town Planning Act 1926.

FIFTH SCHEDULE

Section 52 (2)

REGULATIONS REVOKED

- The Napier Town Planning Regulations 1931. (*Gazette* 1931, Vol. III, p. 2949.)
- Part II of the Hawke's Bay Earthquake (Miscellaneous) Regulations made on the 5th day of July 1932. (*Gazette* 1932, Vol. II, p. 1648.)