

TOWN-PLANNING BILL.

1519

EXPLANATORY MEMORANDUM.

The general purpose of a town-planning scheme is expressed in the Bill to be the development of the city or borough to which it relates so as most effectively to promote its healthfulness, amenity, convenience, and advancement.

The proper subject-matters of a town-planning scheme are set out in the Schedule to the Bill. A scheme may be likened to the plans and specifications of an undertaking, the undertaking in this case being the development of a city according to approved town-planning principles.

The central provision of the Bill is contained in clause 13, which imposes an obligation on the Council of every city, and of every borough having a population of one thousand and upwards, to prepare a town-planning scheme for its district. A period of three years is allowed within which this work is required to be completed.

When a scheme has been provisionally approved by the Town-planning Board, the responsible local authority is required to publicly notify the same, and to give opportunities for the making and hearing of objections. Objections are to be finally determined by the Town-planning Board. When all objections have been heard and determined, and the scheme has been consequentially amended, it is to be finally approved by the Town-planning Board.

So soon as a scheme has been finally approved as aforesaid, it becomes the duty of the Council of the city or borough to which the scheme relates to give effect to it. So far as the scheme concerns new works, they must be in conformity therewith. With respect to areas that have been already built upon, no reconstruction works can be carried out that would tend to delay the ultimate bringing of all works in the district into conformity with the approved scheme. The rigidity of this principle, however, is somewhat relaxed by allowing to the Town-planning Board a discretionary power to make concessions in special cases.

The provisions as to Borough Councils extend to Town Boards in whose districts there is a population of one thousand and upwards, and to certain named Road Boards in the Auckland District that are carrying out municipal functions. (Clause 14.)

If the Town-planning Board is in any case of opinion that a borough with a population of less than one thousand should prepare a plan, the compulsory provisions of the Act may be extended to that borough by Order in Council; and, without compulsion, every Borough Council or Town Board has authority, if it thinks fit, to prepare a scheme for its district. (Clause 13.)

A scheme having been prepared and approved, a Borough Council is given general authority to enforce it, notwithstanding that to give effect to some of the approved matters may have been beyond its powers apart from the general power now proposed to be conferred. In particular, a town-planning scheme may provide for streets of less width than what is required by the Municipal Corporations Act. In this connection, it is expected that a town-planning scheme will provide for main thoroughfares and subsidiary thoroughfares; also that certain areas will be wholly residential and some will be wholly for business purposes. This arrangement will permit of a classification of street-widths having regard to the extent and nature of the traffic that they will be required to carry.

The Bill also makes provision for what are known as regional planning schemes for rural areas. The first purpose of a regional planning scheme is in relation to the town-planning scheme of a neighbouring city or borough. It is impossible, for example, to plan the main thoroughfares of a city or borough without regard to conditions that obtain beyond the city or borough. Without unduly interfering with the established system of local government, it is not possible to empower any local authority to exercise its functions outside its own district. To overcome this difficulty, the Bill makes provisions whereby County Councils may be required, pursuant to Order in Council, to co-operate with Borough Councils, and to produce for the districts under their jurisdiction, or for defined portions of those districts, a modified scheme, known in the Bill as a "regional planning scheme." (Clause 24.) Apart from this modified requirement, the Bill has no compulsive application to County Councils.

The carrying-out of the provisions of a town-planning scheme is declared to be a public work within the meaning of the Local Bodies' Loans Act, thus conferring on the local authorities concerned the necessary power, in compliance with the terms of that Act, to obtain the funds required for the purpose. The ultimate cost of giving effect to the provisions of a scheme will be reduced by the provisions for betterment. By virtue of these provisions land-owners are required to pay to the local authority one-half of any increase in the value of their property that in the opinion of the Valuer-General is due to the preparation or operation of a town-planning scheme. (Clause 30.)

In carrying out a scheme, a local authority will, in general, have recourse to its ordinary powers under the Municipal Corporations Act or the Counties Act, or as the case may be. With the exceptions referred to above, it has not been considered necessary specifically to confer exceptional powers to enable plans to be given effect to.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES,
and, having this day passed as now printed, is transmitted to
the LEGISLATIVE COUNCIL for its concurrence.

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House of Representatives,
20th August, 1926.

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]
Legislative Council, 31st August, 1926.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]
Legislative Council, 1st September, 1926.

Hon. Mr. Bollard.

TOWN-PLANNING.

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A BILL INTITULED

AN ACT to provide for the Making and Enforcement of Town and Regional Planning Schemes. Title.

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

1. This Act may be cited as the Town-planning Act, 1926, and save as otherwise expressly provided herein, shall come into operation on the first day of January, nineteen hundred and twenty-seven. Short Title and commencement.

2. In this Act, unless the context otherwise requires,—
"Board" means the Town-planning Board established under this Act: Interpretation.

“Borough” includes “town district,” and “Borough Council” includes “Town Board”:

“Responsible authority,” in relation to a regional planning scheme, means the County Council or the Committee responsible for the preparation of that scheme: 5

“Street” includes “road.”

General purposes of town-planning and of regional planning schemes.

3. (1.) Every town-planning scheme shall have for its general purpose the development of the city or borough to which it relates (including, where necessary, the reconstruction of any area therein that has been already subdivided and built on) in such a way as will most effectively tend to promote its healthfulness, amenity, convenience, and advancement. 10

(2.) Every regional planning scheme shall have in relation to the rural area to which it relates the same general purposes as a town-planning scheme in relation to a city or borough, but, save in cases where exceptional conditions prevail, every regional planning scheme shall primarily be prepared and dealt with in relation to and as complementary of the town-planning scheme of any city or borough in the vicinity of the rural area. 15

Carrying out of town-planning or regional planning scheme deemed to be public work within meaning of Local Bodies' Loans Act.

4. Any work required to be done by a local authority for the purpose of giving effect to any of the requirements of a town-planning scheme or of a regional planning scheme shall be deemed to be a public work within the meaning of the Local Bodies' Loans Act, 1913, and loans for the purpose may be raised under and subject to the provisions of that Act accordingly. 20 25

Appointments.

Appointment of Director of Town-planning.

5. (1.) The Governor-General may from time to time appoint a suitable person to be the Director of Town-planning, who shall be appointed for a term not exceeding five years, but shall be eligible for reappointment at the expiration of the term of his office. 30

(2.) The Director of Town-planning shall not be subject to the Public Service Act, 1912, but shall, notwithstanding that the term of his appointment is limited in accordance with this section, be entitled at any time within six months after the date of his first appointment to elect to become a contributor to the Public Service Superannuation Fund as if he had been permanently appointed as an officer of the Public Service within the meaning and for the purposes of Part II of the Public Service Classification and Superannuation Act, 1908. 35

(3.) The Director shall receive such salary and allowances as may from time to time be appropriated by Parliament for the purpose, *but shall not be entitled to private practice.* 40

(4.) The Director may be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct.

(5.) This section shall come into force on the passing of this Act.

Constitution of Town-planning Board.

6. (1.) There is hereby established a Board to be called the Town-planning Board (in this Act referred to as the Board). 45

(2.) The Board shall consist of—

(a.) The Minister of Internal Affairs, who shall be the Chairman of the Board:

(b.) The Director of Town-planning: 50

(c.) One person to be appointed on the recommendation of the Council of the New Zealand Society of Civil Engineers (Incorporated):

- (d.) One person to be appointed on the recommendation of the Council of the New Zealand Institute of Architects, incorporated under the New Zealand Institute of Architects Act, 1913 :
- 5 (e.) One person to be appointed on the recommendation of the Council of the New Zealand Institute of Surveyors, incorporated under the Surveyors' Institute and Board of Examiners Act, 1908 :
- 10 (f.) Two persons to be appointed on the recommendation of the Executive Committee of the Municipal Association of New Zealand :
- (g.) One person to be appointed on the recommendation of the Executive Committee of the New Zealand Counties' Association :
- (h.) The persons for the time being holding office respectively as the Surveyor-General, the Engineer-in-Chief of the Public Works Department, and the Government Architect :
- 15 (i.) Not more than *two* other persons, to be appointed on the recommendation of the Minister of Internal Affairs.
- (3.) The members of the Board, other than members who are such
20 by virtue of their office, shall be appointed by the Governor-General for a period of three years, save that any such member may be re-appointed or may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister.
- 25 (4.) The Governor-General may appoint a fit person to fill any casual vacancy in the membership of the Board, and the person so appointed shall hold office only for the unexpired portion of the term of office of his predecessor.
- (5.) In the absence from any meeting of the Board of any member
30 being an officer of the Government service, any officer of his Department having authority to act in his place during his absence from office may attend such meeting in his stead, and while so attending shall be deemed to be a member of the Board. The fact that any such officer so attends and acts at any such meeting shall be conclusive proof of his
35 authority so to do.
- (6.) The powers of the Board shall not be affected by any vacancy in the membership thereof.
7. (1.) The members of the Board, other than the Chairman or officers in the service of the Government, shall be paid such allowances
40 as may be lawfully appointed, and all travelling-expenses reasonably incurred by them in respect of their attendance at meetings of the Board and in transacting the business thereof.
- (2.) All such amounts shall be paid out of moneys to be appropriated by Parliament for the purpose.
- 45 (3.) Notwithstanding anything to the contrary in the Legislature Act, 1908, the seat of a member of the Legislative Council or of the House of Representatives shall not become vacant, nor shall any person be incapable of appointment or election to the Legislative Council or of election to the House of Representatives, by reason of his appointment
50 as a member of the Board under this Act :

Provided that no person, being a member of either House of Parliament, shall be entitled to receive any payment in respect of his services as a member of the Board, other than travelling-expenses as provided for in this section.

Payment of allowances and travelling-expenses of members of Board.

Provision for appointment of chairman in absence of Minister

8. (1.) In the event of the absence of the Minister from any meeting of the Board the members present shall select one of their number to be the chairman for the purposes of that meeting.

(2.) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting-vote. At any such meeting the decision of a majority of the members present shall be the decision of the Board. 5

Quorum.

9. At all meetings of the Board *five* members shall constitute a quorum.

Seal of Board.

10. The Board shall have an official seal, and all Courts shall take judicial notice thereof. 10

Procedure of Board.

11. Save so far as provided by this Act or by regulations under this Act, the Board may regulate its own procedure.

Functions of Board.

12. The functions of the Board shall be to hold all such inquiries, to give all such decisions, awards, determinations, recommendations, and consents, and to do all such other acts and things, as are hereinafter in this Act provided for in that behalf, or as may otherwise be lawfully required of it, or as may, in its opinion, be necessary for the effective administration of this Act. 15

Town and Regional Planning Schemes.

Obligation to prepare town-planning schemes.

13. (1.) The Council of every borough having, according to the census taken in the year nineteen hundred and twenty-six, a population of not less than one thousand shall, before the first day of January, nineteen hundred and *thirty*, prepare and submit to the Board a town-planning scheme in respect of all land within the borough. 20

(2.) The Governor-General may at any time, by Order in Council, require the Council of any other borough to prepare and submit to the Board, before a date to be specified in that behalf in the Order in Council, a town-planning scheme in respect of all land within the borough. 25

(3.) It shall be lawful for the Council of any borough with a population of less than one thousand (but save in accordance with an Order in Council under the *last preceding* subsection it shall not be obligatory on any such Council) at any time, pursuant to a resolution of the Council in that behalf, to prepare a town-planning scheme in accordance with this Act, and the provisions of this Act shall apply to such scheme in the same manner as to schemes prepared in compliance with the requirements of this Act. 30

Extension to certain Road Boards of provisions relating to town-planning schemes.

14. The obligations and powers imposed and conferred by this Act on Borough Councils in relation to town-planning schemes, are hereby imposed and conferred on the Mount Roskill Road Board, the Mount Wellington Road Board, the One Tree Hill Road Board, and the Tamaki Road Board respectively, as if the said Road Boards were Borough Councils and as if their several districts were boroughs. 40

Contents of town-planning scheme.

15. Every town-planning scheme prepared pursuant to this Act shall, having regard to the present and to the future requirements of the borough, make provision for the matters referred to in the Schedule hereto with all such particularity as the Town-planning Board may require. 45

Town-planning schemes to be submitted to Board for approval.

16. Every town-planning scheme shall be prepared in accordance with regulations to be made by the Governor-General in Council 50

pursuant to this Act, and, after having been provisionally approved by resolution of the Council, shall be submitted for approval to the Town-planning Board.

17. (1.) Any town-planning scheme submitted to the Board by a Borough Council, as required by this Act, may be provisionally approved by the Board.

Board may provisionally approve scheme.

(2.) So soon as a scheme has been provisionally approved by the Board as herein provided, the Borough Council shall, in manner prescribed by regulations, publicly notify the scheme, and shall deposit in the office of the Council for public inspection a copy of all maps, plans, and other particulars comprised in the scheme.

(3.) Every occupier of rateable property within the borough shall have a right of objection to the scheme, and may, by notice in writing addressed to the Council, give notice of such objection and of the grounds thereof at any time within three months after the first public notification of the scheme as required by this section.

18. So soon as practicable after the receipt of any objections under the *last preceding* section the Borough Council shall forward the same to the Board together with a statement of its opinion and views as to the merits of the several objections.

Objections to be submitted to Board

19. (1.) The Board shall so 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 such objections, and to make recommendations to the Board with respect thereto.

Hearing of objections.

(2.) At the hearing of any objection under this section the Board or any committee appointed by the Board as aforesaid shall have power to summon witnesses and to hear evidence on oath. The Borough Council or any objector may be represented by counsel.

(3.) The procedure for the institution, hearing, and determination of proceedings under this section shall be in accordance with regulations to be made under this Act, and, subject to such regulations or so far as they do not extend, the Board shall determine the procedure.

20. (1.) On the determination of any objection under this Act the Board may uphold the objection in whole or in part, and may require the modification of the scheme accordingly, or may dismiss the objection.

Board's determination in respect of objections to be final.

(2.) The determination of the Board in respect of any objection as aforesaid shall be final.

21. After all objections have been disposed of, and the requirements of the Board (if any) for the modification of the scheme have been complied with, the Board shall finally approve the scheme, and shall signify its approval by affixing thereto its seal.

Final approval of scheme by Board.

22. (1.) When a scheme has been finally approved by the Board as aforesaid it shall be the duty of the Borough Council to observe and to enforce the observance of the requirements of the scheme in respect of all new works of any description thereafter undertaken within the borough, whether by the Council or by any other person; and, save with the consent in writing of the Board, the Council shall not thereafter undertake or permit any alteration or modification of any existing works if such alteration or modification would tend to prevent or delay their being brought into conformity with the tenor of the approved scheme.

Operation of town-planning scheme

(2.) In addition to any powers conferred on it by the Municipal Corporations Act, 1920, or by any other Act, a Borough Council shall, subject to the provisions of subsection *four* hereof, have all such powers and authorities as may be reasonably necessary to enable it to give full effect to an approved scheme. 5

(3.) The requirements of any Act as to the width of any street or as to the position of the building-line in relation thereto shall not be binding on the Council in giving effect to any provision of a town-planning scheme.

(4.) Where, otherwise than as referred to in the *last preceding* 10 subsection, the carrying-out of any provision of an approved scheme would conflict with any limitations or conditions prescribed by any Act, the Council may apply to the Governor-General in Council for an Order modifying or suspending the provisions of that Act so far as may be necessary to enable effect to be given to the scheme, and thereupon 15 the Governor-General in Council may, in respect of that scheme but not otherwise, make an Order accordingly for the suspension or modification of such provisions or any of them, subject to such conditions and limitations as he thinks fit to impose :

Provided that an Order in Council purporting to modify or suspend 20 any provisions of any Act shall not take effect unless and until it has been approved by a resolution of both Houses of Parliament.

Approved scheme
may be modified or
elaborated with
approval of Board.

23. (1.) Any Borough Council may from time to time of its own motion, and shall if so required by the Board, elaborate any of the provisions of its approved scheme, or enlarge its scheme, or may, on 25 application to the Board, modify or alter any of the details of the scheme, or substitute a new scheme for the approved scheme. In particular, the Council may, as part of a scheme, adopt, with or without modifications, a scheme prepared by or on behalf of the owners of any land within the borough with respect to that land. 30

(2.) The foregoing provisions as to objections to a scheme and as to the approval of a scheme by the Board shall apply with respect to every alteration or addition to a scheme, and to every new scheme substituted for an approved scheme.

Regional planning
schemes in rural
areas.

24. (1.) For the purposes of this Act the expression " rural area " 35 means every county in New Zealand, together with every borough and town district contained within the boundaries of that county (not being a borough or town district to which subsection *one* or subsection *two* of section *thirteen* hereof applies), but exclusive of any road district specified in section *fourteen* hereof. 40

(2.) If any such borough or town district is not situated within the boundaries of a county it shall for the purposes of this Act be deemed to form part of such rural area as the Town-planning Board may determine.

(3.) Any two or more contiguous rural areas shall, if the County 45 Councils exercising authority in the several counties concerned so agree, together form one rural area for the purposes of this Act.

(4.) Where a rural area, as hereinbefore defined, consists of only one county, exclusive of any town district or borough, the County Council shall be the authority responsible for the preparation of a 50 regional planning scheme for that rural area if and when the preparation of such a scheme is required in accordance with the provisions herein-after contained in that behalf :

Provided that the Governor-General may by Warrant appoint any person or body to be a responsible authority within the meaning of this Act for the whole or any defined part of a county in which the Counties Act, 1920, is suspended or is not in force.

5 (5.) In any case other than that provided for in the *last preceding* subsection the several local authorities whose districts together comprise the rural area shall by resolution appoint one or more representatives to form a Committee, and the Committee so appointed, when approved by the Town-planning Board, shall be the responsible authority for that
10 rural area.

(6.) Every Committee appointed under the *last preceding* subsection shall consist of not less than *five* nor more than *ten* members, and in the event of any dispute as to the number of representatives to be appointed by any local authority the matter shall be determined by
15 the Town-planning Board.

(7.) Any City Council or Borough Council charged with the preparation of a town-planning scheme that has, in the opinion of the Town-planning Board, relation to any regional planning scheme may appoint one of its members to act in conjunction with the responsible
20 authority charged with the preparation of a regional planning scheme, and the person so appointed shall for that purpose have power to act in all respects as if he were a member of the responsible authority.

25 (1.) The responsible authority for every rural area, as and when pursuant to this section it is required so to do, shall prepare and submit to the Board a regional planning scheme with respect to the whole or any defined portion of such rural area.

(2.) If in the opinion of the Governor-General in Council the preparation and submission of a regional planning scheme is necessary for the proper consideration of any town-planning scheme, he may require
30 the responsible authority of the rural area forthwith to prepare such scheme, and to submit it to the Board for its consideration in conjunction with a town-planning scheme. Every requisition under this section shall be in writing under the seal of the Board and shall define the area to which it relates.

(3.) In addition to the power conferred on him by the *last preceding* subsection the Governor-General may, at any time, by Order in Council, require the responsible authority of any rural area to prepare and submit to the Board, before a date to be specified in that behalf in the Order in Council, a regional planning scheme in respect of any defined
40 area within the rural area, if he is of opinion that settlement is taking place within that defined area at such a rate that the preparation of a regional planning scheme is deemed advisable in the public interest.

(4.) Save as provided in the foregoing provisions of this section, it shall be lawful for but not obligatory on any County Council, at any
45 time, pursuant to a resolution of the Council in that behalf, to prepare a regional planning scheme in accordance with this Act for the whole or any defined portion of the county, and the provisions of this Act shall apply to such scheme in the same manner as to schemes prepared in compliance with the requirements of this Act.

50 (5.) Every regional planning scheme prepared pursuant to this Act shall, having regard not only to the present and future requirements of the rural area, or any defined portion thereof, as the case may be, but

Responsible authority for rural area may be required to prepare a regional planning scheme.

also to its geographical and economic relationship to any neighbouring city or borough, make provision, with all such particularity as the Board may require, for the matters referred to in the Schedule to this Act.

Application to regional planning schemes of provision relating to town-planning schemes.

26. The foregoing provisions of this Act as to the preparation and approval of town-planning schemes, and as to the making, hearing, and determination of objections thereto, and as to their alteration or elaboration or enlargement, or the substitution of new schemes therefor, shall apply to regional planning schemes in the same manner in all respects as they apply to town-planning schemes. 5
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Operation of regional planning scheme.

27. (1.) When a regional planning scheme has been finally approved by the Board, it shall be the duty of all local and public authorities having jurisdiction within the rural area in respect of the subject-matters of the scheme to observe and enforce the observance, to the extent of their authority, of the requirements of the scheme in respect of all new works of any description thereafter undertaken within the rural area, whether by the local or public authority or by any other person; nor shall any such local or public authority thereafter, save with the consent in writing of the Board, undertake or permit any alteration or modification of any existing works if such alteration or modification would tend to prevent or delay their being brought into conformity with the tenor of the approved scheme. 15
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(2.) In addition to any powers conferred on it by the Municipal Corporations Act, 1920, the Counties Act, 1920, the Town Boards Act, 1908, or any other Act, the Council of any county or borough, or the Board of any town district within a rural area, shall, subject to the provisions of subsection *four* hereof, have all such powers and authorities as may be reasonably necessary to enable it to give effect within its district to an approved regional planning scheme. 25

(3.) The requirements of any Act as to the width of any road or street or as to the position of the building-line in relation thereto shall not be binding on any County Council, Borough Council, or Town Board in giving effect to any provision of a regional planning scheme. 30

(4.) Where otherwise than is referred to in the *last preceding* subsection the carrying-out of any provision of an approved regional planning scheme would conflict with any limitations or conditions prescribed by any Act, the County Council or Borough Council or Town Board concerned may apply to the Governor-General in Council for an Order modifying or suspending the provisions of that Act so far as may be necessary to enable effect to be given to the scheme, and thereupon the Governor-General in Council may, in respect of that scheme but not otherwise, make an Order accordingly for the suspension or modification of such provisions or any of them, subject to such conditions and limitations as he thinks fit to impose: 35
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Provided that an Order in Council purporting to modify or suspend any provisions of any Act shall not take effect unless and until it has been approved by a resolution of both Houses of Parliament. 45

Joint action by local authorities in preparation of combined town and regional planning scheme for area within their jurisdiction.

28. (1.) Notwithstanding anything in the foregoing provisions of this Act, two or more local authorities having jurisdiction over adjoining districts and bound or competent by virtue of this Act to prepare town-planning or regional planning schemes may, with the approval of the Board, resolve to unite for the purpose of preparing a combined scheme for the whole or for a defined portion of the total area within their several jurisdictions. 50

(2.) In any such case the several local authorities concerned shall by resolution appoint one or more representatives to form a Committee, and the Committee so appointed, when approved by the Board, shall be the responsible authority for the combined area.

5 (3.) Every Committee appointed under the *last preceding* subsection shall consist of not less than *five* nor more than *fifteen* members, and in the event of any dispute as to the number of representatives to be appointed by any local authority the matter shall be determined by the Town-planning Board.

10 (4.) On the appointment and approval of a Committee under this section the obligation of the several combining local authorities to prepare any town-planning scheme or regional planning scheme with respect to any area to which the combined scheme relates shall be determined, and in lieu thereof it shall be the duty of the Committee to

15 prepare a combined scheme for the whole of that area.
 (5.) Every scheme prepared pursuant to this section shall be dealt with in the same manner in all respects as schemes prepared pursuant to the foregoing provisions of this Act, and every local authority exercising jurisdiction in the combined area shall, so far as the scheme relates

20 to its district, have the same powers, duties, and responsibilities with respect to the enforcement and carrying-out of the scheme as it would have if the scheme were a town-planning scheme or a regional planning scheme for that district.

Compensation.

25 29. (1.) Every person having any estate or interest in any land taken for the purposes of a town-planning or a regional planning scheme or in any land, buildings, or other improvements injuriously affected by the operation of any such scheme, or *injuriously affected by the operation*

30 *of section thirty-four hereof*, shall, subject to the provisions of this section, be entitled to full compensation for all loss thereby sustained by him. Claims for compensation under this section shall be made and determined within the time and in the manner provided by the Public Works Act, 1908, in respect of lands taken under that Act, or

35 in respect of damage done from the exercise of any powers conferred by that Act.

(2.) Compensation shall not be payable under this section in any of the following cases, that is to say:—

(a.) In respect of the operation of any provision in a town-planning or regional planning scheme if such provision could have

40 been made and enforced without liability to pay compensation by any local or public authority independently of this Act:

(b.) In respect of any provision of a scheme regulating the space about buildings, or limiting the number of buildings that

45 may be erected within any area, or prescribing the height or character of buildings:

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or defining the purposes for which
 any specified area or areas may be exclusively or principally
 used:

Persons injuriously affected by town-planning or regional planning schemes entitled to claim compensation.

(c.) In respect of any buildings erected or any contract made or other thing done in contravention of any scheme after the approval of that scheme by the Town-planning Board, or before such approval but after the receipt of written notice served by the Town-planning Board or by a Borough Council, County Council, or other responsible authority to the effect that a projected building or contract or thing would if proceeded with be in contravention of a scheme then in course of preparation. 5

(3.) Nothing in this section shall deprive any person of any right to compensation that he may have independently of this Act. 10

(4.) 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 such other enactment, nor to receive any greater compensation under this Act than he would be entitled to receive under such other enactment. 15

Betterment.

Betterment.

30. (1.) For the purposes of this section the expression "betterment increase" in relation to any rateable property means such increase in the value of that property as is attributable to the

Struck out.

preparation or operation of a town or regional planning scheme.

New.

approval of a town or regional planning scheme, or to the carrying-out of any work authorized by the scheme. 25

(2.) The amount of any betterment increase as aforesaid shall be ascertained by a Compensation Court under the Public Works Act, 1908, in the same manner, as nearly as may be, as the amount of compensation is ascertained in claims for compensation under that Act. 30

Struck out.

save that in determining the amount of any betterment increase the Court may, in its discretion, include any prospective increase of value which in its opinion is likely to result from the preparation or operation of the scheme. 35

(3.) In any proceedings before a Compensation Court under this section, the local authority in whose district the land is situate shall be the claimant, and the owner or the several owners of the lands affected or likely to be affected by the operation of the scheme shall be the respondents. 40

New.

(3A.) No application to determine the amount of any betterment increase in respect of the carrying-out of a work authorized by a scheme shall be made after the expiration of a period of twelve months after the completion of that work; and no application to determine the amount of any betterment increase attributable to a scheme otherwise than in respect of an authorized work as aforesaid shall be made after the expiration of five years from the final approval of the scheme. 45

(4.) The Compensation Court shall have power, on the application of any party, to order that two or more claims under this section shall be heard and determined together. When the Court so hears and determines two or more claims together it shall have power to appor- 50

tion the total amount of the betterment increase and the cost of the proceedings in such proportions and in such manner as it thinks just.

(5.) For the purposes of this section the President of the Compensation Court shall have power to determine who are the owners of the
5 lands affected, or the owners of any estate or interest in any such land; or he may, if he thinks fit, state a case for the decision of the Supreme Court thereon; and such determination or decision shall be binding on the Compensation Court.

(6.) One-half of the amount of the betterment increase in the value
10 of any rateable property shall constitute a debt payable to the local authority and shall be recoverable, with interest thereon computed at the rate of four and a half per centum per annum, by equal annual instalments extending over such period as the local authority may allow in that behalf, being not more than twenty years in any case:

15 Provided that in any special case and for the purpose of avoiding undue hardship the Compensation Court ~~may reduce the proportion of the betterment increase to be paid to the local authority, or may extend the time within which payment is required to be made.~~

(7.) The amount payable to a local authority in respect of the
20 betterment increase in the value of any property shall, save as herein-after otherwise provided, be payable by the owner of that property:

Provided that where at the date of the valuation there subsists any leasehold estate in such property or any freehold estate less than the fee-
25 simple, the Compensation Court shall, on the application and at the expense of the owner, apportion the amount of the betterment increase between the fee-simple and such other estate or estates, and the amount payable to the local authority in respect of the betterment increase shall be apportioned in the same manner among the several owners of such estates.

(8.) The amount due to the local authority and for the time being
30 outstanding in respect of any betterment increase shall constitute a charge on the rateable property in respect of which it is payable.

(9.) In any such case it shall be the duty of the local authority within
35 twelve months after the amount payable by the owner or other person has been determined to file with the District Land Registrar or Registrar of Deeds, as the case may require, a memorandum under the seal of the local authority setting forth a description of the land so charged, the amount payable, the amount of each annual instalment, and the date fixed for the payment thereof; and the said Registrar shall, without fee,
40 register the memorandum against the title of the land charged.

(10.) Upon the registration of such memorandum it shall be deemed and taken to be actual notice to all persons of the existence of the charge.

(11.) For the purpose of enforcing any charge registered under this
45 section the Supreme Court or a Judge thereof may, on summons, make such order as it or he thinks fit, either for the sale of the property subject to the charge, or for the appointment of a receiver or otherwise howsoever, and any order for such sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ of sale, with any
50 modifications that may be necessary or may be provided by rules of Court in that behalf.

(12.) When any such charge has been satisfied in full the local authority shall deposit with the Registrar a memorandum of satisfaction under the seal of the local authority, and the Registrar shall, without fee, register the same against the title to the land.

(13.) On the subdivision of any land subject to a charge under this section, the charge in respect thereof may be apportioned among the several subdivisions, by agreement made between the local authority and the owner or owners thereof, or, in default of such agreement, by the Valuer-General, acting at the request of the local authority and at its expense, and a memorandum of satisfaction may, on payment in full of so much of the charge as is apportioned to any subdivision, be registered against the title to that subdivision.

(14.) Nothing in this section shall limit the operation of section one hundred and ninety-three of the Municipal Corporations Act, 1920; but any amounts paid or payable to a Borough Council pursuant to that section may be taken into account in determining the amount of any betterment increase for the purposes of this section.

Betterment Fund.

31. (1.) All moneys received by a local authority under the *last preceding* section in respect of the betterment increase in the value of any property shall be paid into a special fund to be called the Betterment Fund.

(2.) The Betterment Fund shall to the extent thereof be applied by the local authority towards the payment of claims for compensation under section *twenty-nine* hereof, and otherwise for defraying any expenses of the local authority incurred in respect of a scheme.

(3.) Any moneys in the Betterment Fund that are not immediately required for the purposes thereof may be invested by the local authority in manner following:—

- (a.) In New Zealand Government securities; or
- (b.) On deposit in any bank lawfully carrying on the business of banking in New Zealand; or
- (c.) In any other securities that may from time to time be authorized by the Governor-General in Council.

(4.) Separate accounts shall be kept by the local authority of all moneys paid into or out of the Betterment Fund, and all such accounts shall be audited by the Audit Office.

Miscellaneous.

Director of Town-planning may certify plans of subdivision of lands for towns, as provided for in Land Act.

32. (1.) While a Director of Town-planning is in office under this Act all plans for the subdivision of any land to which section sixteen or section seventeen of the Land Act, 1924, relates shall be submitted for the consideration of the Director before submission to the Minister of Lands for his approval.

(2.) The Minister of Lands may approve any such plan notwithstanding that any roads or rights-of-way or building-lines shown thereon are not in conformity with the said sections if there is endorsed on such plan a certificate by the Director of Town-planning to the effect that compliance with the requirements of the said sections, or of either of them, as the case may be, is not in the circumstances necessary or advisable, and that the plan is in all respects in conformity with recognized and approved principles of town-planning.

(3.) No person shall be deemed to have committed an offence against the said sections by reason of anything not in conformity therewith if in relation thereto he has in all respects conformed to the requirements of any plans approved and certified as herein required.

5 (4.) This section shall come into force on the passing of this Act.

33. (1.) While a Director of Town-planning is in office under this Act, any Borough Council may, if it thinks fit, submit to the Director for his consideration and recommendations the plans for the subdivision of any land situated within the borough.

Subdivisions in boroughs may, if approved by Director, provide for streets of reduced width.

10 (2.) The Borough Council may approve any such plan notwithstanding that any streets, or private streets, or building-lines shown thereon are not in conformity with the provisions of the Municipal Corporations Act, 1920, if there is endorsed on the plan a certificate by the Director of Town-planning to the effect that compliance with the requirements of the said Act in relation to the said matters is not in the circumstances necessary or advisable, and that the plan is in all respects in conformity with recognized and approved principles of town-planning.

20 (3.) No person shall be deemed to have committed a breach of the provisions of the Municipal Corporations Act, 1920, by reason of anything not in conformity therewith if in relation to such matter he has in all respects conformed to the requirements of any plans approved and certified as herein required.

25 (4.) For the purposes of this section and also of section three hundred and thirty-five of the Municipal Corporations Act, 1920, any division of land, whether into two or more allotments, shall be deemed to be a subdivision of that land, notwithstanding that only one or any number less than the whole of such allotments may be intended for disposal by sale or lease or otherwise.

30 (5.) This section shall come into force on the passing of this Act.

34. (1.) Where at any time after the commencement of this Act and pending the preparation and approval of a town-planning scheme, it appears to any local authority that any projected building or other work intended to be erected or undertaken within its district would not conform to recognized and approved principles of town-planning or would interfere with the amenities of the neighbourhood, the local authority may absolutely or conditionally refuse its consent to the erection of such building, or to the carrying-out of such work, or may definitely prohibit the same.

Pending preparation of scheme, local authority may refuse to allow the erection of any building or the undertaking of any work that would contravene principles of town-planning.

40 (2.) Any person injuriously affected by any determination of a local authority under this section may appeal from that determination to the Town-planning Board.

45 (3.) The determination of the Town-planning Board for the purposes of this section on any question relating to principles of town-planning shall be conclusive and shall bind the local authority.

Regulations.

35. (1.) The Governor-General may from time to time, by Order in Council, make all such regulations as may be required for the purpose of giving full effect to the provisions of this Act, and in particular for regulating the procedure to be adopted—

Regulations.

50 (a.) With respect to the preparation of a town-planning or regional planning scheme :

(b.) With respect to obtaining the provisional and final approval of the Town-planning Board to a scheme :

(c.) With respect to any variation or enlargement of a scheme, or its revocation and the substitution of a new scheme :

New.

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(cc.) In respect of matters preliminary to the constitution of a Compensation Court, and as to the manner in which claims may be made to the Court.

(d.) In respect of the determination by a Compensation Court of the amount of any betterment increase pursuant to section *thirty* hereof. 10

(e.) With respect to any inquiries, reports, notices, objections, or other matters required or arising in connection with the preparation or adoption or approval of a scheme, or preliminary thereto, or in relation to the carrying-out of a scheme or enforcing the observance of the provisions thereof. 15

New.

(2.) All such regulations shall be laid before both Houses of Parliament within thirty-one days after the next meeting of Parliament.

Schedule.

SCHEDULE.

MATTERS TO BE DEALT WITH IN TOWN AND REGIONAL PLANNING SCHEMES.

1. ROADS, streets, private streets, private ways, and footways, including proposals for the closing, alteration, or diversion of any existing road, street, private street, private way, or footway, and proposals for new roads, streets, private streets, private ways, or footways; the fixing of building-lines.
2. Buildings, with particular reference to their position on allotment and in relation to any road or street or to other buildings, their density, character, height, harmony in design of facades.
3. The reservation of land for afforestation purposes, or for recreation-grounds, ornamental gardens, parks, children's playgrounds, and other open spaces.
4. The preservation of objects of historical interest or natural beauty.
5. Systems of sewerage, drainage, and sewage disposal.
6. Systems of lighting and water-supply.
7. The definition of areas to be used exclusively or principally for specified purposes or classes of purposes.
8. Provision for amenities.
9. Ancillary or consequential works.