

**Reprint  
as at 1 July 2013**

**Bylaws Act 1910**

Public Act     1910 No 28  
Date of assent     21 November 1910

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**This Act is administered by the Department of Internal Affairs.**

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## **An Act to make better provision for the validity of bylaws**

### **1 Short Title and commencement**

This Act may be cited as the Bylaws Act 1910, and shall come into operation on 1 January 1911.

### **2 Interpretation**

In this Act, unless a different intention appears from the context or subject-matter,—

**bylaw** means any rule or regulation which is made by any local authority by virtue of any Act now or hereafter to be in force, and which is termed a bylaw in the Act by virtue of which it is so made

**local authority** means—

- (a) any local authority within the meaning of the Local Government Act 2002; or
- (b) any body corporate of any kind whatsoever having authority, under any Act now or hereafter to be in force, to make any rules or regulations which are in that Act termed bylaws; or
- (c) any Board, Council, Trustees, or other body of persons being the governing body of any corporation of any kind whatsoever and having author-

ity, under any Act now or hereafter to be in force, to make any rules or regulations which are in that Act termed bylaws, or (where the context or subject-matter so requires) the corporation of any such governing body.

Section 2 **local authority** paragraph (a): replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

### *Confirmation of bylaws*

#### **3 Application to Minister for confirmation of bylaw**

*[Repealed]*

Section 3: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **4 Confirmation of bylaw by Minister**

*[Repealed]*

Section 4: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **5 Confirmation of bylaw where immaterial error or defect**

*[Repealed]*

Section 5: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **6 Certificate of confirmation**

*[Repealed]*

Section 6: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **7 Effect of certificate of confirmation**

*[Repealed]*

Section 7: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **8 Restrictions on effect of certificate**

*[Repealed]*

Section 8: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **9 Certificate not to be questioned in Court**

*[Repealed]*

Section 9: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

#### **10 Confirmation not to affect prior proceedings for enforcement**

*[Repealed]*

Section 10: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

## 11 Regulations

*[Repealed]*

Section 11: repealed, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

### *Quashing or amending of bylaws by the High Court*

## 12 Order by High Court to quash or amend invalid bylaw

- (1) At any time before or after the coming into operation of any bylaw any person may by motion apply to the High Court for an order quashing the bylaw, or any part thereof, on the ground that the bylaw or such part thereof is for any reason invalid, and if the Court is of opinion that the same is invalid an order may be made quashing the same accordingly.
- (2) Notice of any such application to the High Court, and of the grounds thereof, shall be given by the applicant to the local authority by which the bylaw was made, and that local authority shall be heard in support of the bylaw.
- (3) Every person making any such application to the High Court shall, at the time of filing the notice of motion, pay into Court the sum of 5 pounds as security for the costs of the application.
- (4) The costs of any such application shall, as between the applicant and the local authority, whether the local authority appears in support of the bylaw or not, be in the discretion of the Court, and the Court may make an order accordingly.
- (5) On any such application the High Court may by order, if it thinks fit, instead of quashing the bylaw or any part thereof, amend the same in such manner as the Court thinks necessary in order to render valid the provisions thereof.
- (6) Any amendment so made shall take effect from the making thereof, as if it had been duly made by the local authority by which the bylaw was made, and as if all conditions of the validity and operation of such an amendment, if made by the local authority, had been duly fulfilled.
- (7) Any amendment so made may be repealed or amended by the local authority by which the bylaw was made in the same manner as if the amendment had been made by that local authority.
- (8) If any bylaw is quashed in part or amended under the provisions of this section, the local authority by which the bylaw was made shall give public notice thereof, and shall in any subsequent publication of the bylaw, or in any copy thereof subsequently issued under the seal of the local authority, set forth the bylaw in the form in which it stands after being so quashed in part or amended.
- (9) Every Court, District Court Judge, Justice of the Peace, or Community Magistrate must take judicial notice of every order so made by the High Court quashing or amending a bylaw or any part thereof.

- (10) The quashing or amending of a bylaw under this section shall not affect any conviction, order, or judgment theretofore made or given, or any judicial proceedings then pending, in any Court.

Section 12(9): replaced, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

### *Validity of bylaws*

**13 Bylaw not invalid because of discretionary power left to local authority, etc**

- (1) No bylaw shall be invalid because it requires anything to be done within a time or in a manner to be directed or approved in any particular case by the local authority making the bylaw, or by any officer or servant of the local authority, or by any other person, or because the bylaw leaves any matter or thing to be determined, applied, dispensed with, ordered, or prohibited from time to time in any particular case by the local authority making the bylaw, or by any officer or servant of the local authority, or by any other person.
- (2) This section shall not apply to any case in which the discretion so left by the bylaw to the local authority, or to any officer, servant, or other person, is so great as to be unreasonable.

**14 Bylaw not invalid because subject-matter dealt with by statute**

No bylaw shall be invalid merely because it deals with a matter already dealt with by the laws of New Zealand, unless it is repugnant to the provisions of those laws.

**15 Bylaw may impose different penalty from that imposed by statute**

No bylaw shall be invalid as being repugnant to the laws of New Zealand merely because it imposes in respect of any act or omission a penalty which is greater or smaller than, or different from, the penalty imposed by those laws for the same act or omission; but no greater penalty shall be inflicted upon a defendant than that fixed by statute law.

**16 Bylaw may apply to certain parts of district**

No bylaw shall be invalid because it extends and applies to a part or parts only of the district or region within the jurisdiction of the local authority making the same.

Section 16: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

**17 Part of bylaw only may be deemed invalid**

If any bylaw contains any provisions which are invalid because they are *ultra vires* of the local authority, or repugnant to the laws of New Zealand, or unreasonable, or for any other cause whatever, the bylaw shall be invalid to the extent of those provisions and any others which cannot be severed therefrom.

*Operation and proof of bylaws***18 Bylaw not deemed to relieve from other liability**

Nothing in any bylaw shall be deemed to relieve any person from any penalty, fine, punishment, action, or liability to which he would otherwise be subject in respect of anything done or omitted by him in breach of the bylaw.

**19 Procedure for recovery of fines**

All fines which by virtue of any bylaw are authorised or directed to be imposed on any person for a breach thereof may, when no other form or mode of procedure is prescribed by the Act under which the bylaw is made, be recovered on conviction in the manner provided by the Summary Proceedings Act 1957.

Section 19 heading: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 19: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 19: amended, on 1 April 1958, pursuant to section 214(1) of the Summary Proceedings Act 1957 (1957 No 87).

**20 Bylaw may provide fine for breach thereof**

Where any Act passed after the passing of this Act authorises the making of bylaws, and contains no provision imposing any penalty for the breach of bylaws made thereunder, or authorising the local authority to impose any penalty therefor, then the local authority making any such bylaw may provide a fine for any breach thereof of an amount not exceeding \$500.

Section 20: amended, on 3 June 1998, by section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

**21 Fines to be in the discretion of the Court**

When by any bylaw a person is made liable to a fine of any amount, he may be sentenced to pay a fine of any less amount.

**22 Evidence of bylaws**

- (1) The production of a copy of the *Gazette* purporting to contain a copy of any bylaw shall be sufficient evidence, until the contrary is proved, of the existence, publication, validity, and provisions of the bylaw, and of the date of its coming into operation.
- (2) The production of any document purporting to be or contain a copy of any bylaw and to be authenticated by the seal of the local authority making the same shall, without further evidence of the authenticity of the seal or of any other matter, be sufficient evidence, until the contrary is proved, of the existence, publication, validity, and provisions of the bylaw and of the date of its coming into operation.

- (3) A certificate of the confirmation under this Act of any bylaw may be sufficiently proved by the production of any document which is sufficient evidence of the bylaw itself and which contains or purports to contain the certificate of confirmation or any copy thereof.
- (4) Nothing in this section shall be so construed as to exclude any other sufficient evidence.

**23 Application of Act**

The provisions of this Act shall apply to all bylaws whether made before or after the commencement of this Act, save that nothing herein contained shall have the effect of imposing any liability upon any person in respect of any thing done or omitted by him before the commencement of this Act.

**24 Repeal**

Section 353 of the Municipal Corporations Act 1908 (relating to the quashing and amendment of bylaws by the High Court) is hereby repealed.

**Schedule**  
**Certificate of confirmation**

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Schedule: amended, on 21 September 1972, by section 5(a) of the Minister of Local Government Act 1972 (1972 No 10).

In pursuance of the Bylaws Act 1910, I hereby confirm the above-written bylaw [*or* bylaws], and declare that the same shall come into force [*or* came into force] on the day of 19

Dated this        day of        19

[*Signature*]

Minister of Local Government

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**Notes****1 General**

This is an eprint of the Bylaws Act 1910. The eprint incorporates all the amendments to the Act as at 1 July 2013. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

**2 About this eprint**

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

**3 List of amendments incorporated in this eprint  
(most recent first)**

Criminal Procedure Act 2011 (2011 No 81): section 413