

# Municipal Corporations Amendment Act 1938

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## Contents

	Page
Title	2
1 Short Title. 1933, No. 30	2
2 Section 24 of principal Act (as to vacation of office by Mayor) amended.	3
3 Providing for increased annual allowances to the Mayors of the four main cities.	3
4 Section 61 of principal Act (as to special meetings) amended.	3
5 Section 62 of principal Act (as to special orders) amended.	3
6 Allowances and travelling-expenses may be paid to officers of Council attending conferences.	3
7 Special fees may be charged in respect of the removal of refuse from apartment houses or flats.	4
8 Maximum library rate increased.	4
9 Section 96 of principal Act (as to consolidated rates) amended.	4
10 Council may insure members against personal accident while engaged in duties.	4
11 Lease of cinematograph theatre need not be submitted to public auction or tender in certain cases.	4
12 Observance of Anzac Day.	5
13 Council may expend moneys in connection with holding of conference of Municipal Association in borough.	5
14 Council may expend money in the erection, replacement, and maintenance of buildings on endowments.	5
15 Section 175 of principal Act (as to width of streets) amended.	5

16	Grass-plots and flower-beds in streets.	5
17	Section 223 of principal Act (as to alteration, &c., of drains) amended.	6
18	Section 229 of principal Act (as to private drains) amended.	6
19	Authorizing borrowing without poll for raising funds for advances to property-owners in respect of cost of drainage connections.	6
20	Council may enter on private land to place water-pipes.	6
21	As to fire brigades.	7
22	Section 266 of principal Act amended.	7
23	Repeals.	7
24	Constables to assist officers engaged in prevention of damage by fire.	7
25	Damage by Mayor or principal officer of municipal fire brigade deemed to be damage by fire.	8
26	Council may make by-laws in respect of prevention of fire.	8
27	Licenses for-buildings to be used for public meetings, &c.	9
28	Inspection of licensed buildings.	9
29	Consequential amendments of principal Act.	9
30	Passages in and exits from licensed public buildings to be kept clear.	10
31	Council may install, purchase, or sell gas fittings and equipment.	10
32	Sanitary Inspectors.	11
33	Provision of parking-places for purpose of relieving or preventing congestion of traffic.	11
34	Extension of definition of term "worker" in relation to workers' dwellings.	12
35	Section 361 of principal Act (as to notice of proposed actions) amended.	12
36	Miscellaneous amendments of section 364 of principal Act (as to by-laws).	12
37	Section 381 of principal Act (as to service of notices) amended.	13
38	Application of this Act to Town Boards.	13

Schedule 14

**Conditions as to Use of Buildings for Public Meetings, and for the other Purposes specified in Section 312 of the Principal Act.**

**An Act to amend the Municipal Corporations Act, 1933.**

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

**1 Short Title.**

**1933, No. 30**

This Act may be cited as the Municipal Corporations Amendment Act, 1938, and shall be read together with and deemed part of the Municipal Corporations Act, 1933 (hereinafter referred to as the principal Act).

**2 Section 24 of principal Act (as to vacation of office by Mayor) amended.**

Section twenty-four of the principal Act is hereby amended by adding to subsection one the words “and the vacancy shall be deemed to be an extraordinary vacancy”.

**3 Providing for increased annual allowances to the Mayors of the four main cities.**

- (1) In the case of the Cities of Auckland, Wellington, Christchurch, and Dunedin, the annual allowance payable to the Mayor under section twenty-eight of the principal Act shall be such amount, not exceeding seven hundred and fifty pounds, as the Council from time to time fixes.
- (2) Notwithstanding anything to the contrary in the said section twenty-eight, the allowance of the Mayor of any of the said cities who is in office at the passing of this Act may be increased during his term of office.

**4 Section 61 of principal Act (as to special meetings) amended.**

Section sixty-one of the principal Act is hereby amended by omitting from subsection one the words “by any three Councillors”, and substituting the words “by any number of Councillors being not less than one-third of the total membership of the Council (exclusive of the Mayor)”.

**5 Section 62 of principal Act (as to special orders) amended.**

Section sixty-two of the principal Act is hereby amended as follows:—

(a) By repealing paragraph (c), and substituting the following paragraph:—

“(c) Public notice of the place and date fixed for the subsequent meeting and of the purport of the resolution shall be given twice during the period of twenty-eight days immediately preceding the date of the subsequent meeting, with an interval of not less than fourteen days between the two notifications.”:

(b) By repealing paragraph (d).

**6 Allowances and travelling-expenses may be paid to officers of Council attending conferences.**

Subsection one of section sixty-six of the principal Act shall be deemed to authorize, and to have always authorized, the payment to any officer or servant of the Council of such allowances and travelling-expenses as the Council thinks fit in respect of his attendance at any conference or meeting.

**7 Special fees may be charged in respect of the removal of refuse from apartment houses or flats.**

Section ninety of the principal Act is hereby amended by adding to subsection two the following further proviso:—

“Provided further that in the case of a building that is an apartment house or contains separate apartments let as flats any such annual fee may be a uniform annual fee for each separately occupied portion of the building.”

**8 Maximum library rate increased.**

Section ninety-two of the principal Act is hereby amended by omitting from subsection one the words “one penny”, and substituting the word “twopence”.

**9 Section 96 of principal Act (as to consolidated rates) amended.**

Section ninety-six of the principal Act is hereby amended by omitting from subsection one the words “publicly notified”.

**10 Council may insure members against personal accident while engaged in duties.**

It shall be lawful and be deemed to have always been lawful for the Council from time to time to enter into contracts of insurance insuring members of the Council against loss from personal accident arising out of and in the course of the exercise of their powers or duties as members of the Council, and to pay the premiums payable in respect of such contracts.

**11 Lease of cinematograph theatre need not be submitted to public auction or tender in certain cases.**

- (1) Where an exhibitor’s license has been granted under the Cinematograph Films Act, 1928, in respect of any building vested in the Corporation, the Council may grant a lease of that building to the holder of the license or, where the license has expired, to the last holder of the license at a rent to be fixed in accordance with the provisions of the next succeeding subsection and without selling the lease by public auction or public tender.
- (2) The rent shall be fixed by three independent persons: one to be appointed by the Council, one by the proposed lessee, and the third by such two appointed persons. The rent fixed by any two of such persons shall be final, and where no two of them reach the same decision the decision of such third person as aforesaid shall be final.
- (3) The Council may terminate any lease granted under this section in the event of the lessee ceasing to be the holder of an exhibitor’s license granted as aforesaid in respect of the building comprised in the lease.
- (4) No lease granted under this section shall be for a longer term than seven years.

**12 Observance of Anzac Day.**

The Council may in any year expend such sums as it thinks fit in connection with the observance of Anzac Day.

**13 Council may expend moneys in connection with holding of conference of Municipal Association in borough.**

- (1) The Council of the borough in which the annual meeting of the Municipal Association of New Zealand, Incorporated, is held in any year may in that year or in any earlier or later year expend in connection with the holding of the meeting and the reception and entertainment of delegates and other persons attending the meeting such amount or amounts as the Council thinks fit, not exceeding in the aggregate a sum equal to one per centum of the total general rate struck by the Council in the year in which the meeting is held.

*Commencement.*

- (2) This section shall be deemed to have come into force on the first day of April, nineteen hundred and thirty-six.

**14 Council may expend money in the erection, replacement, and maintenance of buildings on endowments.**

Section one hundred and sixty-eight of the principal Act is hereby amended by adding the following paragraph:—

- “(f) To expend moneys in the erection, replacement, and maintenance of such buildings, structures, and other improvements on any land vested in the Corporation of the borough as an endowment as may be consistent with the purpose for which the land is used or is likely to be used; and for the purpose of providing funds for such expenditure the Council may raise a special loan under the Local Bodies’ Loans Act, 1926, by special order, and without taking the steps prescribed by sections nine to thirteen of that Act.”

**15 Section 175 of principal Act (as to width of streets) amended.**

Section one hundred and seventy-five of the principal Act is hereby amended as follows:—

- (a) By inserting, after the word “Act” in paragraph (e) of subsection four, the words “or unless the consent of the Governor-General in Council is first obtained”:
- (b) By omitting from subsection six the words “the last preceding subsection”, and substituting the words “subsection four of this section”.

**16 Grass-plots and flower-beds in streets.**

- (1) Paragraph (k) of subsection four of section one hundred and seventy-five of the principal Act is hereby amended by omitting the words “such plots or beds”, and substituting the words “any such plots or beds (whether laid out before or after the commencement of this Act)”.

- (2) Section three hundred and sixty-four of the principal Act is hereby amended by inserting, after paragraph nineteen, the following paragraph:—

“(19a) Regulating the use of and protecting grass-plots and flower-beds laid out in streets (whether before or after the commencement of this Act) by or under the authority of the Council.”

- (3) For the purposes of any resolution or by-law of the Council any grass-plot or flower-bed laid out by or under the authority of the Council shall be deemed to be sufficiently described if the street in which it is laid out and its approximate locality in that street are specified.
- (4) The Council shall at all times keep available for public inspection at its principal office a record of all grass-plots and flower-beds for the time being laid out by or under its authority in any street.

**17 Section 223 of principal Act (as to alteration, &c., of drains) amended.**

Section two hundred and twenty-three of the principal Act is hereby amended by omitting from subsection three the words "any drain so constructed", and substituting the words "any public drain".

**18 Section 229 of principal Act (as to private drains) amended.**

Section two hundred and twenty-nine of the principal Act is hereby amended as follows:—

- (a) By omitting from paragraph (a) of subsection one the words "lying within such distance as aforesaid":
- (b) By omitting from paragraph (c) of subsection one the words "and lying within such distance as aforesaid":
- (c) By repealing paragraph (b) of subsection seven, and substituting the following paragraph:—

“(b) To construct any private drain for the drainage of a building if the nearest part of the building is situated more than two hundred feet from the public drain, covered watercourse, street-channel, or sea to which it is required to be connected.”

**19 Authorizing borrowing without poll for raising funds for advances to property-owners in respect of cost of drainage connections.**

Section two hundred and thirty-four of the principal Act is hereby amended by inserting, after the words "Local Bodies' Loans Act, 1926", in subsection six, the words "by special order, and without taking the steps prescribed by sections nine to thirteen of that Act".

**20 Council may enter on private land to place water-pipes.**

- (1) Subject to the provisions of this section, the Council may cause to be placed on or under any private land or under any building in the borough such pipes

as it considers necessary for the conveyance of water in connection with any waterworks:

Provided that it shall not be lawful so to place any such pipe other than an underground pipe unless the permission in writing of the owner of the land or building has been first obtained.

- (2) The provisions of the Ninth Schedule to the principal Act shall, with the necessary modifications, apply with respect to the placing of any such pipes.
- (3) The Council may from time to time alter, renew, repair, and cleanse any such pipe.

**21 As to fire brigades.**

- (1) The Council may establish a municipal fire brigade.
- (2) Where the Council has not established such a brigade it may agree with any fire brigade or other group of persons for the provision of the necessary plant and labour for the purpose of extinguishing fires, and for the payment to any such brigade or persons of such remuneration as the Council thinks fit.
- (3) Any fire brigade or group of persons with which an agreement has been made under the last preceding subsection shall be deemed for the purposes of the principal Act (including this Act) to be a municipal fire brigade; but the members of the brigade or group shall not by reason of this subsection be deemed to be officers or servants of the Council.
- (4) The foregoing provisions of this section shall not apply to any borough that is a fire district or part of a united fire district at any time after the thirty-first day of March next following the date of the constitution of the Fire Board of the fire district.

*Repeal.*

- (5) This section is in substitution for section two hundred and sixty-five of the principal Act, and that section is hereby accordingly repealed.

**22 Section 266 of principal Act amended.**

Section two hundred and sixty-six of the principal Act is hereby amended by omitting from subsection one the words "Fire Inspector personally", and substituting the word "person".

**23 Repeals.**

Sections two hundred and sixty-seven and two hundred and sixty-eight of the principal Act are hereby repealed.

**24 Constables to assist officers engaged in prevention of damage by fire.**

Section two hundred and sixty-nine of the principal Act is hereby amended as follows:—

- (a) By omitting the words “Fire Inspector” where they first occur, and substituting the words “person in command at a fire”:
- (b) By omitting the words “Fire Inspector” where they secondly occur, and substituting the words “such person”.

**25 Damage by Mayor or principal officer of municipal fire brigade deemed to be damage by fire.**

- (1) All damage to property caused by the Mayor, or by the principal officer of a municipal fire brigade, or by any person acting under the orders of the Mayor or of such officer, in the due execution of his duties under this Act relating to the prevention of fires shall be deemed to be damage by fire within the meaning of any policy of insurance against fire, anything in such policy to the contrary notwithstanding.

*Repeal.*

- (2) This section is in substitution for section two hundred and seventy of the principal Act, and that section is hereby accordingly repealed.

**26 Council may make by-laws in respect of prevention of fire.**

- (1) The Council may from time to time make by-laws for the purpose of—
  - (a) Preventing danger from fire, and requiring owners of buildings to provide such safeguards against fire and means of escape in case of fire as the Council shall deem necessary:
  - (b) Specifying the minimum requirements to be observed in respect of the matters set out in clause two of the Schedule to this Act before a building may be licensed in accordance with the provisions of that Schedule.
- (2) No by-law made under this section shall come into force unless and until it is approved by the Minister.
- (3) The Minister may at any time, by writing under his hand, require the Council to make by-laws under this section, and in particular, but without limiting the generality of his powers hereunder, may require the Council to make by-laws prohibiting the use of any electrical installation until the installation has been inspected and approved by officers of the Council, or, as the case may be, by officers of a Fire Board, and prescribing fees to be payable in respect of any such inspection.
- (4) The Minister may at any time, by writing under his hand, require the Council to revoke, alter, or extend any by-laws made by it under this section.
- (5) If the Council does not within three months from the receipt of a requisition of the Minister under the foregoing provisions of this section comply with the requisition, the Governor-General may make such regulations as he thinks fit to give effect to the requisition, and such regulations shall have the full force of by-laws made by the Council under this section and approved by the Minister.

*Repeal and saving.*

- (6) Section three hundred and sixty-four of the principal Act is hereby amended by repealing paragraph twenty-nine thereof. All by-laws that were made under the said paragraph and are in force on the passing of this Act shall enure for the purposes of this section as fully and effectually as if they had been made under this section, and accordingly shall, where necessary, be deemed to have been so made.

*See Reprint of Statutes, Vol. III, p. 332*

- (7) The power conferred upon Fire Boards to make by-laws under the authority of paragraphs (d), (i), (j), and (k) of subsection one of section sixty of the Fire Brigades Act, 1926, shall not be exercised in respect of boroughs at any time after the passing of this Act.
- (8) All by-laws that were made under the authority of the paragraphs referred to in the last preceding subsection and are in force on the passing of this Act shall remain in force until they are replaced by by-laws of a like nature hereafter made under this section.
- (9) The following provisions of the Fire Brigades Act, 1926, shall not hereafter apply with respect to any borough—namely, subsection three of section sixty, section seventy-one, and section seventy-two.

**27 Licenses for-buildings to be used for public meetings, &c.**

The principal Act is hereby amended by repealing the Twelfth Schedule, and substituting therefor the Schedule to this Act.

**28 Inspection of licensed buildings.**

- (1) The Surveyor, the Inspector of Buildings, and any other person appointed in that behalf by the Council, and in the case of a borough that is a fire district or part of a united fire district, the Superintendent of Fire Brigades and any other officer appointed in that behalf by the Superintendent, shall have at all times free access to any part of any licensed building in order to inspect it or to ascertain whether sufficient safeguards against fire and means of escape in case of fire are provided in respect of the building.
- (2) Every person who obstructs or hinders the Surveyor, the Inspector of Buildings, the Superintendent, or any other officer as aforesaid in the execution of his powers under the last preceding subsection commits an offence and is liable to a fine of fifty pounds.

*Repeal.*

- (3) This section is in substitution for section three hundred and fifteen of the principal Act, and that section is hereby accordingly repealed.

**29 Consequential amendments of principal Act.**

The principal Act is hereby consequentially amended as follows:—

- (a) By inserting, after the words “Fire Brigades Act, 1926”, in section two hundred and seventy-one, the words “or by this Act”:
- (b) By repealing subsection three of section three hundred and twelve:
- (c) By inserting, after the word “insecure” in subsection one of section three hundred and sixteen, the words “or is not provided with sufficient safeguards against fire or means of escape in case of fire”.

**30 Passages in and exits from licensed public buildings to be kept clear.**

- (1) The occupier or person having control of any building licensed in accordance with the provisions of the Schedule to this Act shall keep all aisles and exit passages in the building and all exits therefrom free from obstruction, and shall prevent persons from standing or sitting in such aisles, exit passages, and exits while the building is being used for any of the purposes specified in section three hundred and twelve of the principal Act. The Surveyor, the Superintendent of Fire Brigades, or the principal officer of a municipal fire brigade, or any person authorized in that behalf by any of them, may himself remove any such obstruction or direct any person remaining in any such aisle, exit passage, or exit to leave the same.
- (2) Every person who commits any breach of the provisions of this section, or who fails to comply with any direction of the Surveyor, Superintendent, principal officer, or other person as aforesaid, or who in any way hinders or prevents the removal of any such obstruction commits an offence and is liable to a fine of fifty pounds.

**31 Council may install, purchase, or sell gas fittings and equipment.**

- (1) In the exercise of the powers relating to the supply of gas conferred on it by Part XXII of the principal Act, the Council shall have and be deemed to have always had power—
  - (a) To install gas-cookers, service-pipes, and other fittings and equipment in public or private buildings, works, dwellings, and other places, and to charge rent for the use thereof or to accept payment therefor by instalments or otherwise:
  - (b) To purchase gas-cookers, fittings, machinery, and other equipment for the use of gas as applied to individual, domestic, and other purposes, and to sell the same to users of gas at such price as it thinks fit, either for cash or on terms, or to lease the same with or without purchasing clauses:
  - (c) Generally to do all things which in its judgment may promote the use of gas within the borough.

*1936, No. 58*

- (2) For the purposes of section two hundred and eighty-nine of the principal Act, all moneys owing to the Council by the owner or occupier of any premises

in respect of anything done to or installed in the premises or sold for use in the premises pursuant to this section or to section fifty-eight of the Statutes Amendment Act, 1936, shall be deemed to be an advance made by the Council to the owner or occupier under the said section two hundred and eighty-nine.

### **32 Sanitary Inspectors.**

- (1) For the purposes of the principal Act the term “Sanitary Inspector” means a Sanitary Inspector appointed as such for the purposes of the Health Act, 1920, and of Part XXIII of the principal Act.
- (2) Section two of the principal Act is hereby amended by repealing the definition of the term “Inspector of Nuisances”.
- (3) All references to Inspectors of Nuisances in the principal Act or in any regulations or by-laws made under that Act shall hereafter be deemed to be references to Sanitary Inspectors.
- (4) Every person holding office at the passing of this Act as an Inspector of Nuisances under the principal Act shall be deemed to have been duly appointed as a Sanitary Inspector.

### **33 Provision of parking-places for purpose of relieving or preventing congestion of traffic.**

- (1) For the purpose of relieving or preventing congestion of traffic the Council may provide parking-places as defined in subsection six of this section, and for that purpose may—
  - (a) Take, purchase, or otherwise acquire any land or buildings in or near to the borough:
  - (b) Utilize any land or buildings that may lawfully be appropriated for the purpose:
  - (c) Take all such steps as the Council thinks necessary to adapt for use as a parking-place any land or building that it may acquire or utilize under this section:
  - (d) Authorize the use as a parking-place of any part of a street:
  - (e) Appoint any parking-place or any specified part thereof as a station for the exclusive use of vehicles engaged in any passenger-service or goods-service or any other transport-service.
- (2) The Council shall not authorize the use of any part of a street as a parking-place so as unreasonably to prevent access to any premises adjoining the street, or the use of the street by any person entitled to the use thereof, or so as to be a nuisance.
- (3) The exercise by the Council of its powers under this section with respect to the use as a parking-place of any part of a street shall not render it subject to any liability in respect of loss of or damage to any vehicle or the fittings or contents of any vehicle parked in the parking-place.

- (4) The Council may make such by-laws as it thinks fit as to the use of parking-places, and in particular as to the vehicles or class of vehicles that may be entitled to use any parking-place, as to the conditions upon or subject to which any parking-place may be used and as to the charges to be paid to the Council in connection with the use of any parking-place.
- (5) The Council may, in the exercise of its powers of leasing and letting under Part XVI of the principal Act or under any other Act, let or lease to any person for use as a parking-place any parking-place provided by it (not being part of a street).
- (6) In this section the expression “parking-place” means a place where vehicles, or any class of vehicles, may wait; and includes a place that transport-service vehicles, or any class of transport-service vehicles, may use as a station; and also includes all necessary approaches and means of entrance to and egress from any such place, and all such buildings, ticket-offices, waiting-rooms, cloak-rooms, and other facilities as may be deemed necessary or desirable by the Council for the efficient use of such place for the purpose for which it is provided.

**34 Extension of definition of term “worker” in relation to workers’ dwellings.**

- (1) Section three hundred and twenty-seven of the principal Act is hereby amended by adding to the definition of the term “worker” the words “or who is resident or desires to become resident in or near to the borough”.
- (2) Section three hundred and twenty-eight of the principal Act is hereby amended by omitting from subsection one the words “employed or resident in the borough”.

**35 Section 361 of principal Act (as to notice of proposed actions) amended.**

- (1) Section three hundred and sixty-one of the principal Act is hereby amended by inserting, after the words “in pursuance of this Act” in subsection one, the words “or any other Act”.
- (2) The said section three hundred and sixty-one shall not apply with respect to any action or proceeding commenced by the Audit Office under the Public Revenues Act, 1926, the Local Authorities (Members’ Contracts) Act, 1934, or any other Act.

**36 Miscellaneous amendments of section 364 of principal Act (as to by-laws).**

Section three hundred and sixty-four of the principal Act is hereby amended as follows:—

- (a) By omitting from paragraph thirty-six the words “five pounds”, and substituting the words “twenty-five pounds”:
- (b) By repealing paragraph thirty-seven, and substituting the following paragraph:—

“(37) For permitting hawkers, pedlars, and keepers of stalls to occupy stands in such streets and public places as the Council thinks fit, fixing charges in respect of such permits, and prohibiting such persons from carrying on business in specified streets or parts of streets.”:

(c) By omitting from paragraph thirty-nine the words “or birds” wherever they occur, and substituting in each case the words “birds, or bees,”:

(d) By adding the following paragraph:—

“(44) Regulating or controlling the construction, maintenance, or repair of dams so as to prevent damage or injury to property.”

**37 Section 381 of principal Act (as to service of notices) amended.**

Section three hundred and eighty-one of the principal Act is hereby amended by repealing subsection four thereof.

**38 Application of this Act to Town Boards.**

(1) For the purposes of section thirty-three of the Town Boards Act, 1908, as amended by subsection two of section three hundred and ninety-three of the principal Act, sections ten to fourteen of this Act shall be deemed to form part of Division V of the principal Act, and sections fifteen to thirty-four of this Act shall be deemed to form part of Division VI of the principal Act.

(2) For the purposes of section thirty-four of the Town Boards Act, 1908, as amended by subsection two of section three hundred and ninety-three of the principal Act, section thirty-six of this Act shall be deemed to form part of Part XXXII of the principal Act.

## Schedule

### Conditions as to Use of Buildings for Public Meetings, and for the other Purposes specified in Section 312 of the Principal Act.

1

The owner or occupier of the building shall apply in writing to the Council for a license, stating the situation and description of the building, the names of the owner and occupier, and the purpose for which it is to be used.

2

The building shall be inspected by the Surveyor, or by the Inspector of Buildings, or by some person appointed by the Council in that behalf, and by the Superintendent of Fire Brigades in the case of a borough that is a fire district or part of a united fire district, and if satisfied upon their reports—

- (a) That the building is secure and suitable for the purpose proposed;
- (b) That it has sufficient means of ventilation and of ingress and egress;
- (c) That sufficient sanitary conveniences are provided for the use of the public;
- (d) That the building is provided with such safeguards against fire and means of escape in case of fire as are required by by-laws of the Council or of the Fire Board of the district, as the case may be, applying to the building, or, where no such by-laws have been made, that the building is provided with safeguards against fire and means of escape in case of fire to the satisfaction of the proper officer; and
- (e) Where the neighbourhood of the building is supplied with water by means of waterworks, that a sufficient supply of water is laid on and proper appliances are provided for promptly using the same in case of fire,—

the Council shall issue to the applicant a license, under the hand of the Town Clerk, for a period not exceeding one year, to use the said building for the purpose stated in the application; and the building may be used accordingly. For the purposes of paragraph (d) of this clause the proper officer shall be the principal officer of the Municipal Fire Brigade or such other person as the Council appoints in that behalf in the case of a borough that is not a fire district or part of a united fire district, and shall be the Superintendent of Fire Brigades or such other person as the Fire Board appoints in that behalf in the case of a borough that is a fire district or part of a united fire district.

3

The Council may attach to the license any conditions as to the provision at public entertainments, by and at the cost of the licensee, of duly qualified firemen and the use in the building of any means of producing light or heat, or

otherwise for the safety of persons assembled in the building, and may refuse to issue any license until the fee thereon fixed by any by-law is duly paid:

Provided that in the case of a building that is to be used as a theatre or music-hall, or for the exhibition of cinematograph film to the public, the Council shall, if the proper officer within the meaning of clause two hereof so recommends, attach conditions for the provision of firemen qualified to the satisfaction of the proper officer.

**4**

- (1) Any applicant who is refused a license or who is aggrieved at any condition attached to a license may appeal to a Magistrate's Court for redress, and the Court shall have power to make such order as it thinks fit.
- (2) The appeal shall be made in such manner and subject to such conditions as are prescribed.