



ANALYSIS

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1949, No. 27

Title.

AN ACT to Amend the Counties Act, 1920.

[20th October, 1949

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

Short Title.

1. This Act may be cited as the Counties Amendment Act, 1949, and shall be read together with and deemed part of the Counties Act, 1920 (hereinafter referred to as the principal Act).

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

PART I

COUNTY TOWNSHIPS

2. (1) The Council may from time to time, by special order, declare any part of the county not forming part of a town district to be a county township for the purpose of the construction and maintenance of public works for the improvement and development thereof; and by the same or any subsequent special order may fix the boundaries of any such county township, and may assign a name thereto; and by any subsequent special order may alter the boundaries of any county township.

Council on
petition may
constitute
county
townships.

(2) Every such special order for the constitution of a county township shall be made only on petition signed by a majority of the ratepayers within the proposed county township, and defining the boundaries of the county township which it is desired to constitute.

(3) Every such special order to alter the boundaries of any county township shall be made only on petition signed by a majority of the ratepayers in the area proposed to be added thereto or excluded therefrom, as the case may be.

(4) The special order shall fix the day from which the county township shall be constituted or altered, as the case may be.

(5) Before making any special order for the constitution of a county township the Council shall cause a plan of the boundaries of the proposed county township to be deposited in the office of the Council and in some other place or places in the proposed county township. Every such plan shall be open for inspection by the public without fee for at least one month before the passing of the resolution to make the special order, and public notice of the times when and the places where that inspection can be made shall be given by the Council.

3. The Council may from time to time construct and maintain such public works as it thinks fit in any such county township for the purposes of improving, developing, and maintaining the township as an urban area.

Powers of
Council as to
improvement
and
development
works in county
townships.

Separate
improvement
and
development
rates over
county
townships.

4. (1) The Council may from time to time, by special order, make and levy a separate improvement and development rate on all rateable property within a county township for the purpose of defraying the expenses incurred in executing any work therein under the last preceding section; but the total amount of all separate improvement and development rates made for any one year in a county township shall not exceed threepence in the pound on the capital value of the rateable property in the county township or its equivalent on the unimproved value or annual value.

(2) No such rate shall be made or levied, or special order made, save upon a petition signed by a majority of the ratepayers within the county township proposed to be rated and specifying the amount of the rate.

(3) From the proceeds of every such separate improvement and development rate there may be deducted such sum as, in the opinion of the Council, is necessary to defray the cost of making and levying the rate and of the supervision and clerical work necessary in connection with the expenditure thereof.

(4) The amount so deducted shall form part of the ordinary revenue of the county.

(5) The remainder of the separate improvement and development rate shall be expended wholly within the county township within which it was levied.

(6) Every separate improvement and development rate made under the authority of this section shall be made as an annually recurring rate, leviable year by year, without further petition by the ratepayers or without further proceeding on the part of the Council until all moneys advanced under section five of this Act and all moneys borrowed and for the time being payable out of the proceeds of the rate are repaid in full, and thereafter until a further petition signed by a majority of the ratepayers in the county township is presented to the Council praying that the separate rate be discontinued:

Provided that no such rate shall be discontinued without the consent of the Council while any work which has been commenced and in respect of which the rate has been made and levied remains uncompleted.

(7) Every separate rate made under the authority of this section shall be appropriately adjusted in the event of any revaluation of the rateable property in the county township effecting an increase or reduction in the rateable value thereof.

(8) The powers conferred by this section are in addition to and not in substitution for any other powers the Council may have to make and levy general or other rates in respect of the rateable property in any county township, and rates may be made under the authority of this section notwithstanding that those rates, together with any other rates from time to time made by the Council in respect of that property, shall exceed the maximum general or other rates which may be made in any year under the provisions of the principal Act.

5. (1) The Council may from time to time, with the prior approval of the Local Government Loans Board, advance out of its General Account or out of the appropriate Riding Account all or any part of the moneys required to meet the expenses incurred in executing any work in a county township under the authority of section three of this Act.

Advances and grants for development works in county townships.

(2) Every such advance shall be repaid to the General Account or appropriate Riding Account, as the case may be, out of the proceeds of any rate made in respect of that work under the authority of the last preceding section.

(3) The Council may from time to time apply moneys out of its General Account or out of the appropriate Riding Account towards the expenses incurred in executing any work in a county township under the authority of section three of this Act.

6. (1) The Council may, on the application by the owner or occupier of any land within a county township and on being satisfied that the land is used exclusively or principally for farming purposes and is not in the opinion of the Council fit for subdivision for building purposes and is not likely in that opinion to be required for building purposes within a period of five years from the date on which that opinion is expressed and will not derive the full benefit of any improvement and development works carried out under this Part of this Act, exempt that land or any part thereof from the whole or

Council may exempt farm lands from separate improvement and development rates.

any part of any separate improvement and development rate made in that county township. Every such exemption shall be for such period as the Council thinks fit, and may at any time be revoked or amended by the Council.

(2) Public notice shall be given by the Council of every decision of the Council under the last preceding subsection.

(3) Any ratepayer in the county township aggrieved by any decision of the Council under subsection one of this section may appeal therefrom by lodging with the Registrar of the Magistrate's Court nearest to the public office of the Council a notice of appeal setting out the grounds thereof. The notice of appeal shall be lodged within seven days after the giving of the public notice referred to in the last preceding subsection, and a copy of the notice of appeal shall within the same seven days be lodged at the public office of the Council.

(4) The appeal shall be heard by the Magistrate at such convenient time and place as he appoints, of which not less than three days' notice shall be given to the County Clerk and to the appellant, and also, where the appellant is not the person by whom the application for exemption from the special rate was made, to that person.

(5) The determination of the Magistrate on any such appeal shall be final and conclusive.

7. Upon receipt of a petition signed by a majority of the ratepayers in a county township established under section two of this Act, the Council shall appoint a committee under section ninety-three of the principal Act consisting of not less than three nor more than seven ratepayers of that county township.

Committees of
ratepayers in
county
townships.

PART II

MISCELLANEOUS

8. Section sixty-four of the principal Act is hereby amended by adding the following subsections as subsections two, three, and four thereof:—

“(2) In the event of an extraordinary vacancy in the office of elected Councillor occurring within twelve months of the date fixed for the next triennial election, the Council may by resolution determine—

Filling of
extraordinary
vacancies.

“(a) That the vacancy shall be filled in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act, 1925; or

See Reprint
of Statutes,
Vol. V, p. 447

“(b) That the vacancy shall be filled by appointment by the Council of a person qualified to be elected a Councillor, and any person so appointed shall for all purposes be deemed to have been elected to fill the vacancy:

“Provided that where any such vacancy occurs within six months of the date fixed for the next triennial election the Council may by resolution determine that the vacancy shall not be filled.

“(3) Every resolution of the Council under the last preceding subsection shall have effect according to its tenor, notwithstanding anything to the contrary in the Local Elections and Polls Act, 1925.

“(4) Nothing contained in subsection two of this section shall apply in any case where an election of Councillors is required to be held under paragraph (a) or paragraph (b) or paragraph (d) of section sixty-nine of this Act.”

9. Section sixty-five of the principal Act is hereby amended by repealing subsection three, and substituting the following subsections:—

Duration of
office of
Councillor.

“(3) Every Councillor shall come into office as follows:—

“(a) In the case of a triennial election, if he is declared to be elected pursuant to section eleven of the Local Elections and Polls Act, 1925, he shall come into office on the third Wednesday in November in the year in which the election is held, but if he is declared elected pursuant to section thirty-two or section thirty-three of that Act he shall come into office on the day next after the day on which the Returning Officer’s declaration is made:

Ibid., p. 450

“(b) In any other case he shall come into office on the day next after the day on which pursuant to the said section eleven or the said section thirty-two or the said section thirty-three,

as the case may be, he is declared to be elected, or, as the case may require, at the time when he is appointed by the Council pursuant to paragraph (b) of subsection two of the last preceding section.

“(4) Every Councillor shall, unless he sooner vacates office under the last preceding section, continue in office until the Councillors elected at the next triennial election come into office, or, in any case to which section sixty-nine of this Act applies, until the Councillors elected at an election held in accordance with that section come into office.”

Amending provisions as to when triennial election not necessary.

10. Section sixty-eight of the principal Act is hereby amended by omitting the words “six months”, and substituting the words “twelve months”.

Appointment of Deputy Chairman.

11. (1) The principal Act is hereby amended by inserting, after section seventy-six, the following new section:—

“76A. (1) The Council may, if it thinks fit, appoint one of its members to be Deputy Chairman, who, with the consent of the Chairman, or, in the event of the Chairman becoming incapable of acting, without that consent, shall, until the Chairman resumes his duties or a new Chairman comes into office, have all the authority of the Chairman, except the authority to act as a Justice of the Peace by virtue of his office.

“(2) Every Deputy Chairman so appointed shall, so long as he continues to be a member of the Council, hold office until the appointment of his successor.”

(2) Section seventy-nine of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

“(2) If the Chairman is absent from any meeting, the Deputy Chairman (if any) shall preside, but, if no Deputy Chairman has been appointed or if the Chairman and Deputy Chairman are both absent, the Councillors present shall elect one of their number to be the Chairman of that meeting, who shall have and may exercise at that meeting all the functions of the Chairman.”

12. Section eighty-four of the principal Act is hereby repealed, and the following section substituted:—

Annual allowance to Chairman.

“84. (1) The Chairman may be paid such annual allowance, not exceeding two hundred pounds, out of the County Fund as the Council from time to time fixes, but no alteration in the amount of that allowance shall take effect during the term of office of any Chairman.

“(2) For the purposes of the last preceding subsection a person re-elected as Chairman shall be considered a new Chairman.”

13. Section ninety-nine of the principal Act is hereby repealed, and the following new section substituted:—

Making of special orders.

“99. The power given by this or any other Act to a County Council to do anything by special order shall be exercised only as follows:—

“(a) The resolution to do such a thing shall be passed at a special meeting:

“(b) The resolution shall be confirmed at a subsequent meeting (either ordinary or special) held not sooner than the twenty-eighth day after the day of that special meeting and not later than the seventieth day after that special meeting:

“(c) Public notice of the date, time, and place 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:

“(d) Written notice under the hand of the Clerk of the date, time, and place of the subsequent meeting shall be given to each member of the Council three clear days before the subsequent meeting, which notice shall refer to the said resolution:

“(e) The notice directed to be given by the last preceding paragraph shall suffice, even though the subsequent meeting be a special meeting:

“(f) A copy of the proposed special order shall be deposited at the office of the Council and, if the Council thinks fit, at some other place or

places in the county or part of the county specified in the notice referred to in paragraph (c) of this section, and shall be open to the inspection of the public during office hours for at least twenty-one days immediately preceding the day appointed for the holding of the subsequent meeting."

Travelling-allowances of officers.

14. Section one hundred and seven of the principal Act is hereby amended by adding the following subsection:—

"(4) Subsection one of this section shall be deemed to authorize, and always to have authorized, the payment to any officer of the Council of such travelling-allowances as the Council thinks fit in respect of his attendance at any conference, meeting, or course of study or training that in the opinion of the Council will render him better fitted to carry out his duties for the Council."

Increasing penalty for breach of by-laws.

15. Section one hundred and eight of the principal Act is hereby amended by omitting from subsection two the words "ten pounds", and substituting the words "twenty pounds".

Signing of cheques

16. Section one hundred and eighteen of the principal Act is hereby amended by omitting from subsection two the words "any two of such of the Councillors as are", and substituting the words "any Councillor who is".

Abolishing requirement that copies of balance-sheets of counties be laid before Parliament.

17. Section one hundred and forty-two of the principal Act is hereby amended by omitting the words "and the Minister shall, within ten days after he has received the same, lay the same before Parliament if sitting, and, if not, then within ten days after the commencement of the next ensuing session."

Powers of the Council in relation to public recreation and other amenities.

18. (1) Section one hundred and ninety-eight of the principal Act is hereby repealed, and the following section substituted:—

"198. (1) In order to provide for the health, amusement, and instruction of the public the Council may—

"(a) Take, purchase, or otherwise provide and maintain land and buildings within or without the county to be used as, or for the purpose of, pleasure grounds, sports

grounds, gymnasias, physical training schools, gardens, zoological gardens, public halls, music and dance halls, libraries, mechanics' or youths' institutes, athenæums, mortuaries, museums, art galleries, and other public amenities:

“(b) Lay out, improve, and plant any such land, and provide the same with all materials and equipment of any kind whatever and all animals necessary for the full use of the land for the purpose for which it is acquired:

“(c) Furnish any such buildings with books, and works of nature or art, and with all such things as the Council thinks fitting for the purpose for which it is acquired or provided:

“(d) If it thinks fit, fix reasonable charges to be paid for the use of any such land or buildings, subject in the case of a library to the following provisions, that is to say:—

“(i) In the case of a library supported or partly supported by means of a rate, admission thereto shall be open to the public free of all charge; but

“(ii) The Council may by by-law make charges for lending books out of any library under its control:

“(e) Provide or pay to any person or persons such sums as it thinks fit for providing musical entertainments and cinematograph or similar exhibitions in any building owned or leased by the Council, and make such charges for admission to those entertainments or exhibitions as it deems reasonable.

“(2) The Council may make grants of money or grant leases of land at such rental, for such term, and on such conditions as it thinks fit to the trustees or other governing authority of any body (whether incorporated or not), whether within or outside the county, which is not conducted for private profit and the object or principal object of which is to establish, maintain, control, aid, or carry on any of the following:—

“(a) Technical or secondary schools, or classes conducted by the Workers' Educational Association:

“(b) Public halls, libraries, mechanics’ or youths’ institutes, athenæums, museums, art galleries, or trades halls:

“(c) Dental clinics, crèches, district nurses, or any branch of the Royal New Zealand Society for the Health of Women and Children, or other body formed for the object of conserving the health of the community or tending the sick or injured:

“(d) Generally any purpose of recreation, enjoyment, health, education, or instruction, or of improving or developing public amenities.

“(3) In addition to all such powers as aforesaid, the Council may, with the consent of the trustees or other governing body of any such body as aforesaid, assume control of any institution conducted by that body and acquire the property thereof, and those trustees and governing authorities are hereby authorized to give that consent and to transfer that property to the Council.

“(4) The acquisition of land and the erection of buildings for the purposes of this section shall each be deemed to be a public work within the meaning of the Public Works Act, 1928, but no Maori land shall be taken under that Act without the consent of the Minister of Maori Affairs.

“(5) The Council may, with the prior approval of the Minister of Internal Affairs, from time to time prepare and publish handbooks, abstracts, or other publications containing information and matters of interest in relation to the history, administration, or affairs of the county, and, with the like approval, may purchase publications containing photographic views of the county.

“(6) Any payment under this section may be charged against the General Account or the Separate Accounts of any ridings or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven of this Act, or may be apportioned by the Council among those accounts.”

(2) Section twelve of the Counties Amendment Act, 1927, sections fourteen, fifteen, and sixteen of the Statutes Amendment Act, 1945, and section eleven of the Statutes Amendment Act, 1947, are hereby repealed.

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

Ibid., Vol. V,
p. 276
1945, No 40
1947, No. 60

(3) The Schedule to the Counties Amendment Act, 1927, is hereby amended by omitting so much thereof as relates to section one hundred and ninety-eight of the principal Act.

See Reprint
of Statutes,
Vol. V, p. 277

19. The principal Act is hereby amended by inserting, after section two hundred and four, the following new section:—

Council may
agree with
owners to
execute works
on private
land.

“204A. (1) It shall be lawful for the Council, by agreement with and at the expense of the owner or occupier of any land within the county, to execute on or in connection with that land any works in respect of access thereto or the improvement thereof, or any other works which the owner or occupier may be desirous of having executed or may be required to execute pursuant to this or any other Act.

“(2) To the cost of the execution of any works by the Council under this section there may be added such amount, not exceeding five per centum thereof, as the Council thinks fit, for supervision, and that amount shall be recoverable from the owner or occupier accordingly.”

20. Section thirty of the Finance Act, 1922, is hereby amended by adding the following subsection as subsection two thereof:—

Acquisition
of land for
afforestation.
Ibid., p. 269

“(2) Any such Council may from time to time apply any portion of the County Fund in the purchase of land for the planting of trees, shrubs, or other plants.”

21. Section nine of the Counties Amendment Act, 1927, is hereby amended by repealing paragraph (a) of subsection one, and substituting the following paragraphs:—

By-laws as
to fire
prevention.
Ibid., p. 275

“(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 deems necessary:

“(aa) Requiring owners of buildings to install and maintain fire-fighting equipment, fire protection systems and fire alarms:

“(ab) Requiring owners and occupiers of buildings to undertake schemes for evacuation therefrom, and fire and panic prevention drill for staffs:

“(ac) Protecting the public from danger from fire or other emergency in buildings that require to be licensed under by-laws made pursuant to section one hundred and eleven of the principal Act:”.

Amending
provisions as
to renewal
funds.
1936, No. 58

22. Section twenty of the Statutes Amendment Act, 1936, is hereby amended by inserting, after subsection one, the following new subsections:—

“(1A) Any such Council may from time to time set aside any moneys to form a fund or funds for the construction, reconstruction, repair, or renewal of roads and bridges under the control of the Council.

“(1B) Where moneys in any fund established under the last preceding subsection are held for any specified purpose and that purpose has been completed, the Council may, with the prior consent of the Audit Office, transfer those moneys to its General Account or to the appropriate Riding Account.”
