

REPEALED ACTS, 18 No.



NEW ZEALAND

ANALYSIS

Title.

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| <ol style="list-style-type: none"> 1. Short Title. 2. Administration of principal Act. 3. Altering constitution of Town-planning Board. 4. Definition of "street" to include access-way and service-lane. 5. Amending section 29 of principal Act (as to cases in which compensation not payable). | <ol style="list-style-type: none"> 6. Extending powers of local authority as to enforcement of scheme. 7. Powers of Minister on default by local authority or under agreement with local authority. 8. Acquisition of land by local authority for purposes of scheme. |
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1948, No. 59

AN ACT to Amend the Town-planning Act, 1926.

Title.

[26th November, 1948

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 Amendment Act, 1948, and shall be read together with and deemed part of the Town-planning Act, 1926 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. V, p. 488

2. (1) The Minister of Works shall be charged with the administration of the principal Act.

Administration of principal Act.

(2) Section six of the principal Act is hereby amended by omitting from paragraph (a) of subsection two, and also from paragraph (i) of that subsection, the words "Minister of Internal Affairs", and substituting in each case the words "Minister of Works".

(3) All other references in the principal Act to the Minister of Internal Affairs shall hereafter be read as references to the Minister of Works.

Altering constitution of Town-planning Board.

3. Section six of the principal Act is hereby further amended by inserting in paragraph (h) of subsection two, after the word "Department", the words "the Under-Secretary for Internal Affairs".

Definition of "street" to include access-way and service-lane.

4. Section two of the principal Act is hereby amended by repealing the definition of the term "street", and substituting the following definition:—

"'Street' includes any road, access-way, or service-lane."

Amending section 29 of principal Act (as to cases in which compensation not payable).

5. Section twenty-nine of the principal Act is hereby amended by omitting from paragraph (b) of subsection two the words "or prescribing the height or character of buildings", and substituting the words "or regulating the height, design, or external appearance of buildings, or regulating the use of buildings or land by prescribing areas to be used exclusively or principally for specified purposes or classes of purposes".

Extending powers of local authority as to enforcement of scheme.

6. (1) For the purposes of this section,—

"Existing use", in relation to any building or land, means a use of that building or land for any purpose of the same character as that for which it was last used before the date on which the scheme came into force or of a similar character:

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

(2) Nothing in this section shall apply in relation to an existing use of any building or land or in relation to anything done pursuant to a consent given under section seventy-seven of the Statutes Amendment Act, 1941.

(3) Subject to the provisions of this section, in any case where a town-planning scheme or an extra-urban planning scheme has been finally approved by the Board, and it appears to the local authority that any work has been done, or any building has been erected, or any material or thing has been placed on any land in its district in contravention of any of the provisions of the scheme, the local authority may cause to be served on the owner and on the occupier of the land a notice requiring such steps as may be specified in the notice to be taken for the purpose of restoring the land

to its condition before the work was done or, as the case may require, before the building was erected or the material or thing was placed on the land, and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any building or work, the removal of any material or thing, or the discontinuance of any specified use of the land. The notice shall specify a period (being a period of not less than twenty-one days after the service of the notice) within which the notice shall be complied with, and shall state that if the requirements of the notice are not complied with the local authority may apply to the Supreme Court for an order under this section.

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

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

(6) On hearing any such application as aforesaid the Court, if satisfied that the notice was duly given, and that the work was done or, as the case may be, the building was erected or the material or thing was placed on the land in contravention of the scheme, and that the consent of the local authority was not obtained under section seventy-seven of the Statutes Amendment Act, 1941, shall make such order as may be necessary to enable the local authority to do any of the things specified in subsection five of this section:

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Provided that if the Court is satisfied that the requirements of the notice exceed what is reasonably necessary for the purpose of restoring the land to the

condition referred to in subsection three of this section, it shall vary the notice in such manner as it thinks proper for that purpose.

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

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

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

(10) If on an application made by the owner of any land to a Magistrate it appears to the Magistrate that the occupier of the land prevents the owner from doing any act or thing required for the purpose of complying with a notice under this section, the Magistrate may order the occupier to permit the doing of that act or thing.

(11) The provisions of this section are in addition to and not in derogation of the provisions of section seventy-six of the Statutes Amendment Act, 1941.

7. (1) The Minister of Works may at any time, by notice in writing, require any local authority that has not fulfilled an obligation to prepare and submit to the Board a town-planning scheme or an extra-urban planning scheme under the principal Act to prepare a scheme and submit it to the Board for approval, in accordance with the principal Act, within a period, being a period of not less than two months, to be specified in the notice.

Powers of Minister on default by local authority or under agreement with local authority.

(2) If the local authority fails or neglects to comply with the notice, the Minister, on behalf of the local authority, may cause a scheme to be prepared and submitted to the Board for approval, and may take all or any of the steps prescribed by the principal Act and any regulations under that Act to enable a scheme to be finally approved by the Board.

(3) Any local authority may, whether or not any notice has been given to it under subsection one of this section, enter into an agreement with the Minister, containing such provisions as the parties think fit, whereby the local authority authorizes the Minister to take all or any of the steps prescribed as aforesaid to enable a scheme to be prepared and finally approved by the Board.

(4) Subject to the provisions of any agreement under subsection three of this section, all costs, charges, and expenses incurred by the Minister in the exercise of any of the powers conferred on him under or by virtue of subsection two or subsection three of this section shall be recoverable from the local authority as a debt due to the Crown or may be deducted from any moneys payable out of public moneys to the local authority.

8. (1) In any case where a town-planning scheme or an extra-urban planning scheme has been finally approved by the Board, the local authority may, with the prior approval of the Minister of Works, but not otherwise, take, purchase, or otherwise acquire under the Public Works Act, 1928, any land in its district if in its opinion it is necessary or expedient so to do for the proper development or use of the land, or for the provision or preservation of amenities, in accordance with the scheme:

Acquisition of land by local authority for purposes of scheme.

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

Provided that any approval given by the Minister under this subsection may be reviewed by him on any application being made by the local authority for the issue of a Proclamation under the Public Works Act, 1928, declaring any land to be taken pursuant to this subsection.

(2) The local authority may, for the purposes of the scheme, carry out the subdivision or regrouping of any land acquired under this section, and the improvement and development of any such land, and erect buildings on any such land for letting or leasing for industrial or commercial purposes.

(3) For the purpose of acquiring any land or carrying out any work under this section the local authority may from time to time raise a special loan under the provisions of the Local Bodies' Loans Act, 1926, by special order, and without taking the steps prescribed by sections nine to thirteen of that Act.

(4) The local authority may, for any purpose permitted by the scheme, let or lease any land so acquired, or any building or part of a building thereon, in any manner and on terms and conditions authorized by any enactment conferring leasing powers on the local authority:

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

(5) The local authority may sell any such land as aforesaid for the purposes of a private residence of the purchaser, on such terms as it thinks fit.

(6) Nothing in this section shall derogate from the provisions of the Servicemen's Settlement and Land Sales Act, 1943.

See Reprint
of Statutes,
Vol. V, p. 360

1943, No. 16