

## COUNTIES AMENDMENT BILL

### EXPLANATORY NOTE

This Bill makes miscellaneous amendments to the Counties Act 1920 and its amendments.

*Clause 2* re-enacts in an amended form section 98 of the principal Act, which prescribes the method of keeping minutes of meetings. That section prescribes in detail the matters to be recorded in the minutes and the manner of confirming the minutes, but the new section leaves these details to be prescribed by the Council by by-laws or resolution.

*Clause 3* gives power to a County Council to provide in any by-law which prescribes a fee for any inspection or other service that the fee may be refunded if the inspection is not made or the service is not given.

*Clause 4:* Section 112 (1) (a) of the principal Act provides that by-laws are to be made by special order and that a copy of the proposed by-laws must remain available for inspection for at least thirty days immediately preceding the meeting at which the resolution making the special order is to be confirmed. This clause reduces this minimum period from thirty days to fourteen days.

*Clause 5:* Section 118 (2) of the principal Act provides that cheques must be signed by the Treasurer of the Council and countersigned by any Councillor who is authorized to sign cheques. This clause will enable cheques to be signed by the Treasurer or some other officer authorized by the Council and countersigned as at present. The amendment is intended to meet the position where the Treasurer is not available to sign cheques through sickness, absence on leave, and other causes.

*Clause 6:* Section 121 of the principal Act provides that rates are to be levied by the Council separately in each riding, but under section 2 of the Counties Amendment Act 1931 the Council may by special order resolve to make and levy general rates over the county as a whole instead of separately in each riding. Once a Council decides to make and levy general rates over the county as a whole it cannot subsequently revert to the system of rating the ridings separately.

This clause makes special provision as to rating where a new county is formed by the union of two or more counties. In any such case the Council may, at any time before any general rates have been levied in the new county, resolve by special order—

- (a) That general rates are for a period of not more than five years to be levied separately in each of the former counties as if they were ridings of the new county; or
- (b) In any case where any of the former counties rated each of its ridings separately, that that system of rating be adopted in the new county.

In the absence of any such resolution by the Council of the new county, general rates are to be made and levied over the county as a whole.

*Clause 7:* Section 122 of the principal Act provides that separate rates may be made and levied on a petition of a majority of the ratepayers, and section 126 provides that special-works rates may be made and levied on a petition of a majority of the ratepayers of the county or of the particular portion of the county proposed to be rated. Under section 3 of the Counties Amendment Act 1929 these separate rates and special-works rates may be made and levied pursuant to a poll of ratepayers instead of on petition. The purpose of this clause is to enable the Council to make and levy these rates by special order without a prior petition of the ratepayers and without taking a poll of ratepayers, unless, before the date fixed for the confirmation of the resolution to make and levy the rate, not less than 5 per cent of the ratepayers of the riding or, as the case may be, of the portion of the county intended to be rated require a poll of ratepayers to be taken on the proposal, or unless the Council itself decides to take a poll.

*Clause 8* requires a County Council to transfer to the General Account from each separate account a proportionate part of any amounts charged to the General Account in respect of the office, clerical, legal, and other expenses of the Council. A similar provision is made in the case of Borough Councils by section 128 of the Municipal Corporations Act 1933.

*Clause 9:* Section 168 (4) of the principal Act requires the Council to deposit a plan of any proposed drainage district in the office of each Road Board and Town Board within the proposed district, and, if there is no Road Board office in the proposed district, then in the two Road Board offices nearest to the proposed district. This provision is now out of date as there are now no Road Boards in existence except in counties where the principal Act is suspended or is not in force. This clause provides that the plan is to be deposited for inspection in the office of the Council and at such other place or places as the Council determines.

*Clause 10:* The purpose of this clause is to enable dwellinghouses which are being purchased from County Councils under agreement for sale and purchase to be settled as joint family homes under the Joint Family Homes Act 1950. To enable this to be done it is necessary for the agreements for sale and purchase to be registered under the Land Transfer Act 1952 against the Council's title to the land, and this clause makes provision for their registration under that Act as if they were leases of the land, but otherwise in substantially the same manner as is provided in section 25 of the Finance Act 1950 for the registration of agreements for sale of State houses. Similar provision was made by section 22 of the Municipal Corporations Amendment Act 1953 in the case of dwellinghouses being purchased from Borough Councils.

*Clause 11* confers on County Councils powers in respect of dangerous, deserted, ruinous, and dilapidated buildings similar to those at present possessed by Borough Councils under the Municipal Corporations Act 1933. The Council may take steps to protect passers-by from any dangerous building and give notice to the owner to remove the danger by securing the building or pulling it down, it may pull down any deserted building that is being used as a disorderly house, etc., and it may give notice to the owner to repair or pull down any ruinous or dilapidated building. If any such notice is not complied with the Council may apply to a Magistrate's Court for an order for the securing or pulling down or repairing of the building, and if any such order is not complied with by the owner the Council may then proceed to secure it, pull it down, or repair it at the owner's expense. Any materials salvaged may be sold by the Council and the proceeds applied in payment of its expenses and any surplus applied in payment of any encumbrance on the land. Any balance then remaining is payable to the owner.

*Clause 12* enables the Council to register a charge against the land in respect of any expenses incurred by it in exercise of the powers conferred by *clause 11*.

*Clause 13* amends the designation of county townships constituted under Part I of the Counties Amendment Act 1949. They are in the future to be known as county towns.

*Clause 14:* Section 3 of the Statutes Amendment Act 1951 authorizes County Councils to acquire land in county townships for subdivision for housing purposes and to subdivide for housing purposes any other land owned by the Council in a county township. The purpose of this clause is to apply these provisions to any land in the county, whether in a county township or not.

*Clause 15* empowers County Councils to make by-laws regulating or restricting the cutting of hedges or trees adjacent to a road where the cutting of the hedges or trees may constitute a source of nuisance or danger to the users of the road.



*Hon. Sir William Bodkin*

## COUNTIES AMENDMENT

### ANALYSIS

Title.	9. Deposit of plans of drainage districts.
1. Short Title.	10. Registration of agreements for sale.
2. Minutes of meetings.	11. Powers of Council with respect to dangerous, deserted, ruinous, and dilapidated buildings.
3. Refund of fees paid under by-laws.	12. Money expended under section 204B to be a charge on the land.
4. Inspection of proposed by-laws.	13. County townships to be known as county towns.
5. Signing of cheques.	14. Acquisition of land for subdivision.
6. Special provisions as to rating where new county formed by union of several counties.	15. By-laws as to cutting of hedges and trees.
7. Separate rates and special-works rates.	
8. Transfers to General Account from separate accounts.	

### A BILL INTITULED

AN ACT to amend the Counties Act 1920.

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 Counties Amendment Act 1954, and shall be read together with and deemed part of the Counties Act 1920 (hereinafter referred to as the principal Act).

Short Title.

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

2. The principal Act is hereby amended by repealing section ninety-eight, and substituting the following section:

Minutes of meetings.

“98. (1) Minutes of the proceedings of the Council shall be kept in a book which shall be kept in the office of the Council, and shall be open to inspection without fee during all office hours by any Councillor or elector or by any creditor of the Corporation.

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“(2) The minutes of the proceedings of the Council or of any committee, duly entered and authenticated as prescribed by the Council, shall be *prima facie* evidence of the proceedings and of the validity thereof.

“(3) The Council may from time to time make by-laws or pass resolutions prescribing the form and manner of keeping and authenticating the minutes.”

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Refund of fees paid under by-laws. 1952, No. 75

3. The principal Act is hereby amended by inserting, after section one hundred and eight A (as inserted by section sixteen of the Counties Amendment Act 1952), the following section:

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“108B. Any by-law that provides for the payment of fees for inspections and other services may also provide that, where the inspections and other services in respect of which a fee has been paid have not been made or given, the Council may refund any such fee or portion thereof as it may determine.”

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Inspection of proposed by-laws.

4. Section one hundred and twelve of the principal Act is hereby amended by omitting from the proviso to paragraph (a) of subsection one the words “thirty days”, and substituting the words “fourteen days”.

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Signing of cheques.

1949, No. 27

5. (1) Section one hundred and eighteen of the principal Act is hereby amended by repealing subsection two (as amended by section sixteen of the Counties Amendment Act 1949), and substituting the following subsection:

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“(2) No money shall be drawn out of that account save by cheque signed by the Treasurer of the Council, or by some other officer of the Council who is for the time being authorized by the Council to sign cheques, and countersigned in each case by any Councillor who is for the time being authorized by the Council to sign cheques.”

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(2) Section sixteen of the Counties Amendment Act 1949 is hereby consequentially repealed.

Special provisions as to rating where new county formed by union of several counties.

6. The principal Act is hereby amended by inserting, after section one hundred and twenty-one, the following new section:

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“121A. (1) Where a new county is formed by the union of two or more counties, the Council may, by special order made before any general rates have been levied in the new county, and notwithstanding anything  
5 in section two of the Counties Amendment Act 1931, resolve that general rates shall be made and levied separately in each of the former counties for such period not exceeding five years as is specified in the special order. In any such case the provisions of this Act as to the  
10 levying of rates separately in each riding of the county, as far as they are applicable and with the necessary modifications, shall apply as if each such former county were a riding of the new county.

See Reprint  
of Statutes,  
Vol. V, p. 280

“(2) Where a new county is formed by the union of  
15 two or more counties any of which immediately before the union made and levied general rates separately in each of its ridings, the Council, instead of making and levying general rates in accordance with subsection *one* of this section, may, by special order made before any  
20 general rates have been levied in the new county, and notwithstanding anything in section two of the Counties Amendment Act 1931, resolve that general rates shall be made and levied separately in each riding of the new county.

25 “(3) Subject to the provisions of any special order under subsection *one* or subsection *two* of this section, the Council of any such new county shall make and levy all general rates over the county as a whole, and the provisions of subsection four of section two of the Counties  
30 Amendment Act 1931 shall apply accordingly.”

7. (1) Section one hundred and twenty-two of the principal Act is hereby amended by repealing subsections one and two, and substituting the following subsections:

Separate rates  
and special-  
works rates.

35 “(1) The Council may from time to time by special order make and levy rates (in this Act referred to as separate rates), either in addition to or instead of any general rate, upon all rateable property within any riding of the county or within such portion of the county as is defined in the special order:

40 “ Provided that a poll of the ratepayers of the riding or, as the case may be, of the particular portion of the county proposed to be rated shall be taken on the proposal to make and levy the rate where—

“(a) Not less than five per cent of the ratepayers within the riding or, as the case may be, within the particular portion of the county proposed to be rated, by writing under their hands delivered or sent by post to the Council and received at the offices of the Council not later than the day before the date fixed for the confirmation of the resolution to make and levy the rate, demand that a poll of the ratepayers within the riding or, as the case may be, within that portion be taken on the proposal; or

“(b) The Council so resolves,—  
and the rate shall not be made and levied unless a majority of the valid votes recorded at the poll are in favour of the proposal.

“(2) The total amount of separate rates and general rates together shall not in any one year exceed the amount of the maximum general rate specified in section one hundred and twenty hereof.”

(2) Section one hundred and twenty-five of the principal Act is hereby amended by repealing the proviso.

(3) Section one hundred and twenty-six of the principal Act is hereby amended by repealing subsection one (as amended by section five of the Counties Amendment Act 1929), and substituting the following subsection:

“(1) The provisions of subsection one of section one hundred and twenty-two of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the making and levying of any special-works rate under section one hundred and twenty-four or section one hundred and twenty-five of this Act as if the references in that subsection to separate rates were references to a special-works rate.”

(4) Section two of the Counties Amendment Act 1929 is hereby consequentially amended as follows:

(a) By omitting from subsection one the words “if the petition presented in relation to such rate so requests”, and substituting the words “if the special order to make and levy the rate so provides”:

(b) By omitting from the same subsection the words "petition by the ratepayers", and substituting the words "special order".

(5) Sections three and five of the Counties Amendment Act 1929 are hereby consequentially repealed.

See Reprint of Statutes, Vol. V, p. 279

8. The principal Act is hereby amended by inserting, after section one hundred and thirty-seven, the following section:

Transfers to General Account from separate accounts.

"137A. (1) The Council shall, unless the Audit Office otherwise directs, annually transfer to the General Account from each separate account kept by it such sum as in the opinion of the Council represents the proportionate part attributable to that separate account of the amount charged to the General Account in respect of the office, clerical, legal, and other expenses of the Council of any nature whatsoever.

"(2) If the Audit Office considers that any sum so transferred is excessive or insufficient, or that no sum should be transferred from any particular separate account, the Council shall forthwith retransfer from the General Account the whole, or so much thereof as the Audit Office directs, of the sum transferred from that separate account, or, as the case may require, shall transfer to the General Account from the separate account such sum as the Audit Office directs."

9. Section one hundred and sixty-eight of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:

Deposit of plans of drainage districts.

"(4) Before making any such special order the Council shall cause a plan of the proposed district to be deposited at the offices of the Council and at such other place or places as the Council determines."

10. The principal Act is hereby amended by inserting, after section one hundred and ninety-three, the following section:

Registration of agreements for sale.

"193A. (1) Notwithstanding anything to the contrary in the Land Transfer Act 1952, an agreement for sale under section one hundred and ninety-three of this Act or under section five of the Statutes Amendment Act 1951 (whether made before or after the commencement of this section) may be registered under the Land Transfer Act 1952 against the title of the Council to the land, in the same manner, subject to any modifications prescribed by regulations made under this section, as a lease may be so registered.

1952, No. 52

1951, No. 81



1952, No. 52

“(2) Where the District Land Registrar is satisfied that any such agreement has not been executed in duplicate, he may accept as a duplicate of the agreement a copy of the agreement duly authenticated to his satisfaction as a true copy, and every such authenticated copy shall, for the purposes of Part III of the Land Transfer Act 1952, be deemed to be a duplicate of the agreement. 5

“(3) Where any such agreement has been registered as aforesaid, every transfer, mortgage, lease, transmission, and other disposition of the land comprised therein may be registered in the same manner, subject to any modifications prescribed by any regulations made under this section, as a similar transfer, mortgage, lease, transmission, or disposition of a registered lease. 10 15

“(4) The same fee shall be payable on the registration of any transfer, mortgage, lease, transmission, or other disposition of the land comprised in any such agreement as on the registration of a similar transfer, mortgage, lease, transmission, or other disposition of an estate in fee simple in land. 20

“(5) The registration of any such agreement or of any assignment or other disposition thereof shall have the same effect in conferring priority of title as against any unregistered right, title, or interest, as if it were the registration of a transfer or other disposition of the legal estate in the land: 25

“Provided that registration shall not be necessary for the validity, either at law or in equity, of any such agreement or any assignment or other disposition thereof. 30

“(6) Where the Council rescinds any such agreement which has been registered under this section it may send a notice of rescission to the District Land Registrar, who, without further notice or inquiry and without fee, shall enter a memorial thereof upon the register. 35

“(7) Where the purchaser's estate or interest under any such registered agreement is subject to any registered encumbrance, lien, or other interest, the District Land Registrar, before registering the purchaser as the proprietor of an estate in fee simple in the land, shall make all entries necessary to record on the certificate 40

of title every existing registered encumbrance, lien, and interest, in the order of their registered priority; and the purchaser's estate or interest in the land shall be subject to every such encumbrance, lien, and interest as if it had been created in respect of that estate.

“(8) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for regulating the mode of registration of instruments under this section. All such regulations shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.”

11. The principal Act is hereby amended by inserting, after section two hundred and four A (as inserted by section nineteen of the Counties Amendment Act 1949), the following section:

“204B. (1) On being satisfied that any building in the county is in such a condition as to be dangerous to persons therein or in any adjoining building or to passers-by, the Council may—

“(a) Put up a hoarding or fence so as to prevent persons approaching nearer thereto than is safe:

“(b) Give notice to the owner of the building to remove danger either by securing or by taking down the building within a time specified in the notice, and the Council shall send a copy of the notice to every person having a registered interest in the land under any mortgage or other encumbrance.

“(2) The Council, on being satisfied that any building in the county is a deserted building, and is used, or has for the greater part of two months then past been used, as a disorderly house, or as a refuge for thieves or prostitutes, or to the annoyance of the neighbourhood, may, after giving fourteen days' notice in that behalf to the owner and to every person having a registered interest in the land under any mortgage or other encumbrance, cause the building to be pulled down, and may destroy, or sell and retain the proceeds of, the materials composing the same.

Powers of Council with respect to dangerous, deserted, ruinous, and dilapidated buildings.  
1949, No. 27

“(3) The Council, on being satisfied that any building (other than a dwellinghouse) in the county is in a dilapidated or ruinous condition, may give notice to the owner of the building to repair or take down the building within a time specified in the notice, and shall send a copy of the notice to every person having a registered interest in the land under any mortgage or other encumbrance. 5

“(4) If the owner of the building does not, within the time specified in any notice under subsection *one* or subsection *three* of this section, remove all danger by securing or taking down the building or, as the case may be, repair or take down the building, or commence to do so within that time and proceed therein with all reasonable expedition, a Magistrate’s Court may, upon the application of the Council and after notice to the owner and to every person having a registered interest in the land under any mortgage or other encumbrance, order the building to be secured or taken down or, as the case may be, to be repaired or taken down, as the Court thinks fit, within a time specified in the order. 10 15 20

“(5) If the order is not obeyed, the Council may cause the building to be secured or taken down or repaired in compliance with the order.

“(6) The Council may recover from the owner the cost of any hoarding or fence put up under subsection *one* of this section and the cost of securing or taking down or repairing any building under this section, together with all expenses incurred by the Council under this section. 25 30

“(7) Any such notice or order to the owner may, in the absence of the owner, be given by being posted by registered letter addressed to him at his last known address, or by being served upon his agent or upon the occupier (if any) of the building, or, if the owner’s address is not known and he has no known agent and the building is unoccupied, by fixing the same on the building. 35

“(8) Any such notice to any other person having an interest in the land may be given to him by serving the same upon him personally or by posting it by registered letter addressed to him at his last known address or by serving it upon his agent. 40

“(9) If the building is taken down by the Council, the Council may destroy or sell the materials or any part thereof, and apply the proceeds in or towards payment of the expenses incurred under this section, and shall apply the residue (if any) in payment of any registered encumbrances on the land in the order of their priority, and shall upon demand pay the balance (if any) to the owner.

“(10) In any case in which immediate danger is apprehended arising from the condition of any building the Chairman may, upon the report of some competent person appointed by the Chairman, by warrant under his hand cause any measures to be taken necessary in his judgment to secure the safety of the public, until the next meeting of the Council.

“(11) The Council may recover from the owner all expenses incurred in taking any measures under subsection *ten* of this section to secure the safety of the public.

“(12) The term ‘building’ in this section includes any part of a building, or anything affixed thereto, and also a wall or fence, whether forming part of a building or not.”

12. The principal Act is hereby further amended by inserting, after section two hundred and four B (as inserted by section *eleven* hereof), the following section:

“204c. (1) In any case where an order has been made under section two hundred and four B hereof requiring any dangerous building to be secured or taken down or any dilapidated or ruinous building to be repaired or taken down and any money is recoverable by the Council under the provisions of that section, the Council may deposit with the District Land Registrar or the Registrar of Deeds, as the case may be, in the land registration district in which is situated the land whereon the building was erected, a certificate under the hand of the Clerk or other responsible officer of the Council describing the land and specifying the amount recoverable as aforesaid, and the Registrar shall thereupon register the certificate in respect of that land.

Money expended under section 204B to be a charge on the land.

“(2) The money specified in a certificate registered under this section in respect of any land shall, until the payment thereof, be a charge on the land. The charge shall be deemed to have been created at the time of the registration of the certificate, and that registration shall be deemed to be registration of the charge for the purposes of the Statutory Land Charges Registration Act 1928. 5

See Reprint  
of Statutes,  
Vol. VII,  
p. 1280

“(3) Every charge created by this section shall, save as hereinafter provided, have priority over all existing or subsequent mortgages, charges, or encumbrances howsoever created. Notwithstanding anything to the contrary in any other Act, if any land subject to a charge created by this section is also subject to a charge created by that other Act, the charges shall rank equally with each other unless by virtue of that other Act the charge created thereby would be deferred to the charge created by this section.” 10 15

County  
townships to  
be known as  
county towns.  
1949, No. 27

**13.** (1) The Counties Amendment Act 1949 is hereby amended as follows: 20

- (a) By omitting from section two the words “county township” wherever they occur, and substituting in each case the words “county town”:
- (b) By omitting from section three the words “county township” and also the word “township” where it last occurs, and substituting in each case the words “county town”:
- (c) By omitting from section four the words “county township” wherever they occur, and substituting in each case the words “county town”:
- (d) By omitting from section four A (as inserted by section ten of the Counties Amendment Act 1952) the words “county township” wherever they occur, and substituting in each case the words “county town”:
- (e) By omitting from section five (as amended by section eleven of the Counties Amendment Act 1952) the words “county township” wherever they occur, and substituting in each case the words “county town”:

1952, No. 75

- (f) By omitting from sections six and seven the words "county township" wherever they occur, and substituting in each case the words "county town":
- 5 (g) By omitting from section seven<sup>A</sup> (as inserted by section thirteen of the Counties Amendment Act 1952) the words "county township" wherever they occur, and substituting in each case the words "county town".
- 10 (2) Section forty-nine of the Town and Country Planning Act 1953 is hereby amended by omitting from subsection one the words "county township" wherever they occur, and substituting in each case the words "county town". 1953, No. 91
- 15 (3) Every reference to a county township in any other Act or in any regulation, rule, by-law, order, or other enactment, or in any contract, agreement, deed, instrument, petition, application, licence, permit, notice, or other document whatsoever, shall hereafter be read as a reference to a county town.
- 20 14. Section four of the Statutes Amendment Act 1951 is hereby amended as follows: Acquisition of land for subdivision. 1951, No. 81
- (a) By omitting from subsection one the words "that is situated within a county township constituted under Part I of the Counties Amendment Act 1949":
- 25 (b) By omitting from subsection two the words "in a county township".
- 30 15. In addition to the powers to make by-laws conferred by the principal Act or any other Act, a Council may make by-laws regulating or restricting the cutting of hedges or trees adjacent to a road where in the opinion of the Council the cutting of the hedges or trees may constitute a source of nuisance or danger to the users of
- 35 the road. By-laws as to cutting of hedges and trees.