

Version  
as at 1 July 2013



## Bylaws Act 1910

Public Act 1910 No 28  
Date of assent 21 November 1910  
Commencement 1 January 1911

### Contents

	Page
Title	2
1 Short Title and commencement	2
2 Interpretation	2
<i>Confirmation of bylaws</i>	
<i>[Repealed]</i>	
3 Application to Minister for confirmation of bylaw <i>[Repealed]</i>	3
4 Confirmation of bylaw by Minister <i>[Repealed]</i>	3
5 Confirmation of bylaw notwithstanding immaterial error or defect <i>[Repealed]</i>	3
6 Certificate of confirmation <i>[Repealed]</i>	3
7 Effect of certificate of confirmation <i>[Repealed]</i>	3
8 Restrictions on effect of certificate <i>[Repealed]</i>	3
9 Certificate not to be questioned in court <i>[Repealed]</i>	3
10 Confirmation not to affect prior proceedings for enforcement <i>[Repealed]</i>	4
11 Regulations <i>[Repealed]</i>	4

---

#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

	<i>Quashing or amending of bylaws by the Supreme Court</i>	
12	Order by Supreme Court to quash or amend invalid bylaw	4
	<i>Validity of bylaws</i>	
13	Bylaw not invalid because of discretionary power left to local authority, etc	5
14	Bylaw not invalid because subject matter dealt with by statute	5
15	Bylaw may impose different penalty from that imposed by statute	5
16	Bylaw may be limited in application to certain parts of district	5
17	In certain cases part of bylaw only to be deemed invalid	6
	<i>Operation and proof of bylaws</i>	
18	Bylaw not deemed to relieve from other liability	6
19	Procedure for recovery of fines	6
20	Bylaw may provide fine for breach thereof in certain cases	6
21	Fines to be in the discretion of the court	6
22	<i>Gazette</i> to be evidence of bylaw	6
23	Application of Act	7
24	Repeal	7
	<b>Schedule</b>	8
	<b>Certificate of confirmation</b>	
	<i>[Repealed]</i>	

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

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

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

### **2 Interpretation**

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

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

**local authority** means—

- (a) any local authority within the meaning of the Local Government Act 2002; or
- (b) any body corporate of any kind whatsoever having authority, under any Act now or hereafter to be in force, to make any rules or regulations which are in that Act termed bylaws; or

- (c) any Board, Council, Trustees, or other body of persons being the governing body of any corporation of any kind whatsoever and having authority, under any Act now or hereafter to be in force, to make any rules or regulations which are in that Act termed bylaws, or (where the context or subject matter so requires) the corporation of any such governing body.

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

### *Confirmation of bylaws*

*[Repealed]*

Heading: repealed, on 3 June 1998, pursuant to section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

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

*[Repealed]*

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

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

*[Repealed]*

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

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

*[Repealed]*

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

### **6 Certificate of confirmation**

*[Repealed]*

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

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

*[Repealed]*

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

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

*[Repealed]*

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

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

*[Repealed]*

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

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

*[Repealed]*

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

**11 Regulations**

*[Repealed]*

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

*Quashing or amending of bylaws by the Supreme Court*

**12 Order by Supreme Court to quash or amend invalid bylaw**

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

thereof subsequently issued under the seal of the local authority, set forth the bylaw in the form in which it stands after being so quashed in part or amended.

- (9) Every court, District Court Judge, Justice of the Peace, or Community Magistrate must take judicial notice of every order so made by the High Court quashing or amending a bylaw or any part thereof.
- (10) The quashing or amending of a bylaw under this section shall not affect any conviction, order, or judgment theretofore made or given, or any judicial proceedings then pending, in any court.

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

### *Validity of bylaws*

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

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

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

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

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

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

#### **16 Bylaw may be limited in application to certain parts of district**

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

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

**17 In certain cases part of bylaw only to be deemed invalid**

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

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

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

**19 Procedure for recovery of fines**

All fines which by virtue of any bylaw are authorised or directed to be imposed on any person for a breach thereof may, when no other form or mode of procedure is prescribed by the Act under which the bylaw is made, be recovered on conviction in the manner provided by the Justices of the Peace Act 1908.

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

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

**20 Bylaw may provide fine for breach thereof in certain cases**

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

Section 20: amended, on 3 June 1998, by section 2 of the Bylaws Amendment Act 1998 (1998 No 29).

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

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

**22 Gazette to be evidence of bylaw**

- (1) The production of a copy of the *Gazette* purporting to contain a copy of any bylaw shall be sufficient evidence, until the contrary is proved, of the existence, publication, validity, and provisions of the bylaw, and of the date of its coming into operation.
- (2) The production of any document purporting to be or contain a copy of any bylaw and to be authenticated by the seal of the local authority making the

same shall, without further evidence of the authenticity of the seal or of any other matter, be sufficient evidence, until the contrary is proved, of the existence, publication, validity, and provisions of the bylaw and of the date of its coming into operation.

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

### **23 Application of Act**

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

### **24 Repeal**

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

**Schedule**  
**Certificate of confirmation**  
*[Repealed]*

s 6

Schedule: repealed, on 3 June 1998, pursuant to section 3 of the Bylaws Amendment Act 1998 (1998 No 29).

## Reprints notes

### **1**    *General*

This is a reprint of the Bylaws Act 1910 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2**    *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3**    *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4**    *Amendments incorporated in this reprint*

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

Local Government Act 2002 (2002 No 84): section 262

District Courts Amendment Act 1998 (1998 No 76): section 7

Bylaws Amendment Act 1998 (1998 No 29)