



ANALYSIS

Title
1. Short Title

2. Abatement of nuisances created by
Board

1963, No. 130

**An Act to Amend the Auckland Metropolitan Drainage Act
1960** [25 October 1963]

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—This Act may be cited as the Auckland Metropolitan Drainage Amendment Act 1963, and shall be read together with and deemed part of the Auckland Metropolitan Drainage Act 1960 (hereinafter referred to as the principal Act).

2. Abatement of nuisances created by Board—(1) The principal Act is hereby amended by inserting, after section 36, the following section:

“36A. (1) Where any nuisance within the meaning of section 29 of the Health Act 1956 is created by the Board in the exercise of any powers conferred on it by this Act, the Director-General of Health may, by notice in writing to the Board, require the Board to abate the nuisance and specify the works to be done by the Board in order to abate the nuisance and the time within which they shall be done.

“(2) If the Board considers the requirements specified in any such notice to be unreasonable or impracticable or unnecessary, it may, within three days after service of the notice on the Board, apply to the Magistrate’s Court at Auckland for an order setting aside or modifying the notice. Pending the hearing of the application, the notice shall be deemed to be suspended.

“(3) On the hearing of the application, the Court, whose decision shall be final, shall determine whether the notice should or should not be set aside or modified, and, if the notice is not set aside, the time within which the Board must comply with the notice or, as the case may be, with the notice as so modified.

“(4) If the Board within the time specified in any such notice, or, in the case of an application to the Court, within the time specified in the order of the Court, fails to comply with the notice or order, the Medical Officer of Health under the Health Act 1956, without further notice to the Board, may cause the nuisance to be abated, and for that purpose may, with such assistants as may be necessary, enter on any land or premises of the Board and execute or cause to be executed thereon such works as may be necessary.

“(5) All expenses reasonably incurred by the Medical Officer of Health in the abatement of a nuisance under subsection (4) of this section shall be recoverable from the Board as a debt due to the Crown.

“(6) Nothing in this section shall derogate from the provisions of the second proviso to paragraph (g) of subsection (1) of section 36 of this Act or of section 43 of this Act.”

(2) Section 36 of the principal Act is hereby amended—

- (a) By inserting in paragraph (g) of subsection (1), before the words “shall not be liable”, the words “subject to the provisions of section 36A of this Act”:
- (b) By inserting in the second proviso to the said paragraph (g), after the word “liability”, the words “under any rule of law”.