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1951, No. 3—*Local*

AN ACT to amend the Dunedin District Drainage and Sewerage Act 1900. Title.
[19 October 1951 Preamble.

WHEREAS in consequence of the enactment of the Statutory Land Charges Registration Act 1928 the Dunedin Drainage and Sewerage Board has for some years past discontinued the making of entries in the Register of Charges required to be kept by it in accordance with the provisions of the Dunedin District Drainage and Sewerage Act 1900 and the amendments thereof: And whereas it is intended to provide that the Board shall no longer be required to keep the said Register of Charges:

BE IT THEREFORE 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 Dunedin District Drainage and Sewerage Amendment Act 1951, and shall be read together with and deemed part of the Dunedin District Drainage and Sewerage Act 1900 (hereinafter referred to as the principal Act).

Interpretation.

2. In this Act, unless the context otherwise requires, the term “Registrar” means the District Land Registrar, or, as the case may require, the Registrar of Deeds, at Dunedin.

Register of Charges discontinued.

3. It shall be lawful for the Board to discontinue the keeping of a Register of Charges as required by section eighteen of the Dunedin District Drainage and Sewerage Act Amendment Act 1907.

Section 18 of Act of 1907 repealed.

4. Section eighteen of the Dunedin District Drainage and Sewerage Act Amendment Act 1907 is hereby consequentially repealed.

Amendment of section 11 of Act of 1907.

5. Section eleven of the Dunedin District Drainage and Sewerage Act Amendment Act 1907 is hereby amended by repealing subsection five, and substituting the following subsection:—

“(5) A memorandum of any such notice, demand, order, or direction may be registered by the Board in the Deeds Register Office or Land Registry Office at Dunedin, as the case may require.”

Charges.

6. The following provisions shall apply to a charge created by or by virtue of the principal Act:—

(a) Subject to the provisions of paragraph (b) hereof as to registration, the charge shall take effect as from the passing by the Board of a resolution to execute the works in respect of which the charge is created, whether the moneys charged thereby have been sued for or not, and notwithstanding the provisions of any other Act to the contrary:

(b) The said charge shall not take effect unless the Board shall have—

(i) Registered a memorandum of the notice, demand, order, or direction requiring the execution of the said works in the Deeds

Register Office or Land Registry Office at Dunedin, as the case may require, within fourteen days after the date on which such notice, demand, order, or direction was signed on behalf of the Board:

Provided that where the said works are executed in consequence of any agreement entered into by an owner with the Board it shall not be necessary for the Board to register such agreement:

Provided also that it shall not be necessary for the Board to register any notice of its election to do the work pursuant to section twenty-six of the principal Act or section twelve of the Dunedin District Drainage and Sewerage Act Amendment Act 1907:

(ii) Registered a memorandum of the resolution to execute the said works in the Deeds Register Office or Land Registry Office at Dunedin, as the case may require, within fourteen days after the date of the resolution:

(iii) Commenced the said works within twelve months from the date of such resolution:

Provided that nothing herein contained shall prejudice the right of the Board to give, make, or pass a fresh notice, demand, order, direction, or resolution in respect of the same works:

(c) Registration of a memorandum of the resolution to execute the works in accordance with paragraph (b) hereof shall be deemed to be sufficient compliance with the provisions of the Statutory Land Charges Registration Act 1928:

(d) Failure by the Board to comply with any of the requirements of paragraph (b) hereof shall not prejudice the rights or remedies given to the Board by the principal Act for the recovery of the cost of executing the said works other than that of charging the land on which the said works are executed:

(e) Subject to the provisions of the Statutory Land Charges Registration Act 1928, a charge created by or by virtue of the principal Act shall bind the owner for the time being of the premises charged and his successors in title, and shall take effect notwithstanding, and shall have precedence over, any other charge or encumbrance thereon, excepting a charge for the rates due in respect of such premises to any other local authority, and any such rating charge shall have priority equally with the Board's charge:

(f) Interest on the amount charged shall begin to accrue fourteen days after the date of the posting to the person liable of notice of the certificate of the Drainage Engineer of the cost of the works.

Section 11 of Act of 1911 repealed.

7. Section eleven of the Dunedin District Drainage and Sewerage Acts Amendment Act 1911 and section eight of the Dunedin District Drainage and Sewerage Acts Amendment Act 1912 are hereby repealed.

Registration of notices, &c.

8. (1) Registration of the memorandum mentioned in subparagraph (i) of paragraph (b) of section six of this Act may be effected by depositing with the Registrar a notice in the form No. 1 in the Schedule to this Act.

(2) Registration of the memorandum mentioned in subparagraph (ii) of the said paragraph (b) may be effected by depositing with the Registrar a notice in the form No. 2 in the Schedule to this Act. It shall not be necessary to specify in such memorandum the amount of the charge, whether the works have been executed or not.

(3) On receipt of a notice under either of the preceding subsections, and on payment of a fee of five shillings in respect thereof, the Registrar shall register the notice under the Deeds Registration Act 1908 or the Land Transfer Act 1915 as the case may require.

(4) Any such notice may be signed on behalf of the Board by the Chairman, or the Secretary, Deputy Secretary, or other responsible officer of the Board.

Registration of releases.

9. (1) Upon deposit with the Registrar of a certificate in the form No. 3 in the Schedule to this Act signed on behalf of the Board that any such notice, demand,

order, direction, or resolution has ceased to be effective as regards the land to which it refers, the Registrar shall, without payment of a fee, cause a memorial to be registered to that effect.

(2) Upon satisfaction of any registered charge the Board shall, without fee, cause to be signed a certificate in the form No. 4 in the Schedule to this Act, and on such certificate being deposited with the Registrar he shall, without payment of a fee, cause a release of the charge to be registered.

(3) Any certificate under this section may be signed on behalf of the Board by the Chairman, or the Secretary, Deputy Secretary, or other responsible officer of the Board.

(4) If within twelve months after registration of a memorandum of any such notice, demand, order, or direction the Board does not register a memorandum of a resolution to execute the works the Registrar may cancel the registration of such first mentioned memorandum.

(5) If it appears to the Registrar that any registered charge has been satisfied, and that for any reason it is impossible or impracticable to obtain a certificate to that effect as required by the foregoing provisions of this section, the Registrar may, on application in writing by any proprietor of the land affected by the charge, cause a release of the charge to be registered.

(6) Subsection two of section eighteen of the Dunedin District Drainage and Sewerage Acts Amendment Act 1909 is hereby repealed.

10. No stamp duty shall be chargeable in respect of any document executed for the purpose of this Act in any of the forms in the Schedule to this Act.

Repeal.
Exemption from stamp duty.

11. Section twenty-one of the Dunedin District Drainage and Sewerage Acts Amendment Act 1915 is hereby amended by repealing the proviso thereto.

Amendment of section 21 of Act of 1915.

12. Any charge created by or by virtue of the principal Act, and any notice, demand, order, or direction given or made by or on behalf of the Board which may, by reason of the failure of the Board heretofore to enter a note or memorandum thereof, or of the service thereof, or of the amount charged, in the Register of Charges

Validation of existing charges, &c.

as required by the principal Act, be invalid, shall, notwithstanding such failure as aforesaid, be and be deemed to have been valid and effectual for all purposes and in all respects:

Provided that this section shall not apply with respect to any such charge unless the Board has registered it under the Statutory Land Charges Registration Act 1928:

Provided also that no such charge shall have any greater priority than is given to it by the said Act as a result of such registration as aforesaid.

Register of
notices, &c.

13. The Board shall keep a register of all notices, demands, orders, or directions required or authorized by the principal Act or the by-laws to be given or made by the Board or any officer thereof, and of all resolutions by the Board for the execution of works by the Board. The register shall be open to inspection by all persons at all reasonable times at the office for the time being of the Secretary of the Board on payment of such sum as is from time to time fixed by the Board by resolution, not exceeding two shillings in respect of each name or property searched; and the Board shall furnish copies of any part of the register to any person applying for copies on payment of such sum as is from time to time fixed by the Board by resolution, not exceeding five shillings in respect of each property.

Entry of
amount
charged, &c.

14. A note or memorandum of the amount for the time being owing in respect of any charge and of the dates on which the works were respectively commenced and completed shall be entered in the book required to be kept by the Board by section eight of the Dunedin District Drainage and Sewerage Acts Amendment Act 1914.

Section 16 of
1909 Act
amended.

15. (1) Section sixteen of the Dunedin District Drainage and Sewerage Acts Amendment Act 1909 is hereby amended by omitting the words " Register of Charges of the Board ", and substituting the words " register required to be kept by the Board by section thirteen of the Dunedin District Drainage and Sewerage Amendment Act 1951 ".

(2) Any existing agreement to which the said section sixteen applies shall continue to enure for the benefit of and bind the owner for the time being of the premises

to which it relates, or the part thereof affected by such agreement, if a note or memorandum thereof is entered in the said register within two months after the passing of this Act, and all existing agreements, whether verbal or in writing, and notwithstanding the failure of the Board heretofore to enter a note or memorandum thereof in the Register of Charges of the Board, are hereby validated.

16. (1) Section twenty-five of the Dunedin District Drainage and Sewerage Acts Amendment Act 1909 is hereby amended as follows:—

Section 25 of
1909 Act
amended.

(a) By omitting from subsection three the words “ Register of Charges ”, and substituting the words “ register required to be kept by the Board by section thirteen of the Dunedin District Drainage and Sewerage Amendment Act 1951 ”:

(b) By omitting from subsection four the words “ the Register of Charges ”, and substituting the words “ such register as aforesaid ”.

(2) Any existing agreement to which the said section twenty-five applies shall continue to bind the premises described or referred to therein and the respective owners for the time being of such premises if a note or memorandum thereof is entered in the said register within two months after the passing of this Act, and all existing agreements, notwithstanding the failure of the Board heretofore to enter in the Register of Charges a note or memorandum thereof, are hereby validated.

17. (1) Section twelve of the Dunedin District Drainage and Sewerage Acts Amendment Act 1912 is hereby amended by omitting the words “ the Board’s Register of Charges ”, and substituting the words “ the register required to be kept by the Board by section thirteen of the Dunedin District Drainage and Sewerage Amendment Act 1951 ”.

Amendment of
section 12 of
Act of 1912.

(2) Any existing consent under the said section twelve shall continue to bind the premises to which it relates and the owner thereof if a note or memorandum thereof is entered in the said register within two months after the passing of this Act.

Amendment of section 11 of Act of 1913.

18. (1) Section eleven of the Dunedin District Drainage and Sewerage Acts Amendment Act 1913 is hereby amended by omitting from subsection two the words "the register of charges", and substituting the words "the register required to be kept by the Board by section thirteen of the Dunedin District Drainage and Sewerage Amendment Act 1951".

(2) Any existing memorandum to which the said section eleven applies shall continue to be valid and effectual if it is recorded in the register required to be kept by the Board as aforesaid within two months after the passing of this Act.

Amendment of section 16 of Act of 1913.

19. Section sixteen of the Dunedin District Drainage and Sewerage Acts Amendment Act 1913 is hereby amended by omitting the words "the register of charges", and substituting the words "any register kept by the Board".

Books and registers on loose-leaf system.

20. All books and registers required by the principal Act and this Act to be kept by the Board may be kept on the loose-leaf system.

Section 9 of Act of 1914 repealed.

21. Section nine of the Dunedin District Drainage and Sewerage Acts Amendment Act 1914 is hereby repealed.

Amendment of section 19 of Act of 1915.

22. Section nineteen of the Dunedin District Drainage and Sewerage Acts Amendment Act 1915 is hereby amended by repealing subsection three, and substituting the following subsection:—

"(3) Without in any way affecting the validity of any agreement entered into before the commencement of this subsection, a note or memorandum of such agreement shall be entered in the register required to be kept by the Board by section thirteen of the Dunedin District Drainage and Sewerage Amendment Act 1951 within fourteen days after the execution of the agreement by the Board."

Evidence.

23. (1) The minute books of the Board and of any committee thereof, the instalment book, and all registers required by the principal Act and this Act to be kept by the Board shall be *prima facie* evidence of the contents thereof respectively, of the validity of all proceedings recorded therein, and of all entries therein having been duly authorized and made.

(2) The provisions of subsection one of this section shall extend and apply to a copy of an entry in any such minute book, the instalment book, or any such register, certified by the Secretary to be a true copy.

24. Section twenty of the Dunedin District Drainage and Sewerage Acts Amendment Act 1915 is hereby repealed. Section 20 of Act of 1915 repealed.

25. (1) Section twenty-two of the principal Act is hereby amended by omitting the words " five pounds ", and substituting the words " twenty pounds ". Penalty for breach of by-laws.

(2) Notwithstanding anything to the contrary in the principal Act or in any existing by-law of the Board, the penalty for every breach of the Board's by-laws shall be of an amount in the discretion of the Court inflicting the same, but shall not exceed the sum of twenty pounds for a single offence.

26. (1) The Registrar shall not be concerned to inquire as to the truth of the statements contained in any notice or certificate deposited with him under this Act; and no action shall lie against the Crown, or against the Registrar or any other person on behalf of the Crown, in respect of the registration of any such notice, or of any memorial, charge, or release pursuant to any such notice or certificate. Protection of Registrar and of Consolidated Fund.

(2) No person shall have any claim against the Consolidated Fund by reason of any omission, mistake, or misfeasance of any person other than the Registrar, his officers, or his clerks, in relation to the registration of any notice, memorial, charge, or release under this Act.

Schedule.

SCHEDULE

[Form No. 1

NOTICE OF DRAINAGE WORKS

To the District Land Registrar,
 [or Registrar of Deeds,]
 Otago Land Registration District.
 [or Deeds Registration District.]

TAKE notice that the Dunedin Drainage and Sewerage Board has given or made a notice, demand, order, or direction requiring the execution of certain works on the land hereinafter described, and that you are hereby directed and required to record a memorial thereof against the said land pursuant to the Dunedin District Drainage and Sewerage Amendment Act 1951.

A fee of 5s. for registration is forwarded herewith.

Description of Land

Name of proprietor:
 Situation:
 Area:
 Description by reference to section number, &c.:
 [If under Land Transfer Act] Reference to certificate of
 title: Volume, folio
 Dated at Dunedin, this day of, 19
 Dunedin Drainage and Sewerage Board.

Secretary.

[or other authorized officer].

NOTE.—A plan of the land affected must be endorsed if the land is not under the Land Transfer Act, or, where the land is under that Act, if portion only of the land included in a certificate of title is affected by the charge.

[Form No. 2

NOTICE OF STATUTORY LAND CHARGE

To the District Land Registrar,
 [or Registrar of Deeds,]
 Otago Land Registration District.
 [or Deeds Registration District.]

TAKE notice that the Dunedin Drainage and Sewerage Board has resolved, so as to create a charge against the land hereinafter described, to execute certain works on the said land under the authority of the Dunedin District Drainage and Sewerage Act 1900, and that you are hereby directed and required to register the said charge pursuant to the Dunedin District Drainage and Sewerage Amendment Act 1951.

A fee of 5s. for registration is forwarded herewith.

Description of Land Affected by Charge

Name of proprietor: .

Situation: .

Area: .

Description by reference to section number, &c.: .

[If under Land Transfer Act] Reference to certificate of
title: Volume . , folio .

Dated at Dunedin, this . day of . , 19 .

Dunedin Drainage and Sewerage Board.

Secretary.

[or other authorized officer].

NOTE.—A plan of the land affected must be endorsed if the land is not under the Land Transfer Act, or, where the land is under that Act, if portion only of the land included in a certificate of title is affected by the charge.

[Form No. 3

RELEASE OF DRAINAGE NOTICE

To the District Land Registrar,

[or Registrar of Deeds,]

Otago Land Registration District.

[or Deeds Registration District.]

I HEREBY certify that the notice, demand, order, direction, or resolution relating to the execution of certain works on the land hereinafter described has ceased to be effective as regards the said land, and you are hereby required and directed to register a memorial to that effect.

Description of Land Affected and Reference to Notice, &c.

Name of proprietor: .

Situation: .

Area: .

Description by reference to section number, &c.: .

[If under Land Transfer Act] Reference to certificate of
title: Volume . , folio .

Description of notice, &c.: .

[Insert particulars as to registration number, &c., sufficient
to identify the notice, &c.]

Dated at Dunedin, this . day of . , 19 .

Dunedin Drainage and Sewerage Board.

Secretary.

[or other authorized officer].

[Form No. 4

RELEASE OF REGISTERED STATUTORY LAND CHARGE
 To the District Land Registrar,
 [or Registrar of Deeds,]
 Otago Land Registration District.
 [or Deeds Registration District.]

I HEREBY certify that the statutory land charge hereinafter referred to has been satisfied, and you are hereby required and directed to register a release of the charge accordingly.

Description of Land Affected and Reference to Charge

Name of proprietor: .

Situation: .

Area: .

Description by reference to section number, &c.: .

[If under Land Transfer Act] Reference to certificate of
 title: Volume , folio .

Description of charge: .

[Insert particulars as to registration number, &c., sufficient
 to identify the charge.]

Dated at Dunedin, this day of , 19 .

Dunedin Drainage and Sewerage Board.

Secretary.

[or other authorized officer].