

New Zealand.

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1915, No. 12.—*Local and Personal.*

Title. AN ACT to amend the Dunedin District Drainage and Sewerage Act, 1900, and the Acts amending the same.

[12th October, 1915.]

BE IT 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 Acts Amendment Act, 1915, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900.

Interpretation. 2. (1.) In the said Acts, if not inconsistent with the context, "borough" includes the city, a town district, a road district, and a county, or part thereof respectively, forming part of the district.

(2.) In this Act, if not inconsistent with the context,—

"The principal Act" means the Dunedin District Drainage and Sewerage Act, 1900 :

"The Amendment Act, 1902," means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1902 :

"The Amendment Act, 1905," means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1905 :

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“The Amendment Act, 1907,” means the Dunedin District Drainage and Sewerage Act Amendment Act, 1907 :

“The Amendment Act, 1909,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1909 :

“The Amendment Act, 1911,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1911 :

“The Amendment Act, 1912,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1912 :

“The Amendment Act, 1913,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1913 :

“The Amendment Act, 1914,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1914 :

“Ratepayers ” means the persons whose names are entered in respect of a rating-qualification on the district electoral roll under the said Acts or, in the case of a borough, on the district electors roll of that borough.

3. (1.) The Board is hereby authorized to borrow further money, Borrowing-powers.  
not exceeding the sum of thirty-five thousand pounds, for the purposes of the said Acts other than the purposes mentioned or referred to in section seventy of the principal Act.

(2.) Subject and without prejudice to the provisions hereinafter contained as to the consent of the ratepayers, section fifty-six of the principal Act shall be read and construed as if the words “six hundred and fifteen thousand pounds” had been originally inserted therein instead of the words “two hundred thousand pounds.”

(3.) Before raising the loan authorized by subsection one hereof, or any part of such loan, the consent thereto of the ratepayers of the district shall be obtained by the Board, but no such consent shall be necessary in connection with any loan raised for the purpose of repaying any loan hereby authorized or for the purpose of carrying out any contract entered into by the Board prior to the passing of this Act and uncompleted at the date thereof or any modification of such contract :

Provided always that no person lending any money to the Board pursuant to this Act shall be concerned to inquire whether any such consent shall have been obtained.

4. Notwithstanding anything contained in the said Acts or in any special order heretofore passed by the Board, the money hereby authorized to be borrowed, and also any moneys heretofore authorized to be borrowed and not borrowed in pursuance of such authority, may be raised or borrowed on such terms as will produce to the lender a rate of interest not exceeding six pounds per centum per annum ; and the provisions of subsections two and four of section fifty-eight of the principal Act shall, as to the moneys so raised or borrowed, be read and construed with such modifications in regard to the rate of interest on such moneys as may be necessary for giving effect to this section. Interest on loans.

5. Prior to the actual raising of a loan authorized by this Act or any other Act now or hereafter passed it shall be lawful for the Board to cancel any debentures created in connection with such loan notwithstanding any dealing therewith, including any mortgage or hypothecation thereof, and may create fresh debentures in substitution therefor with, upon, or subject to the same or any other terms or conditions : Power to cancel and reissue debentures.

Provided always that nothing in this section contained shall affect or prejudice the rights of the holders for the time being of such first-mentioned debentures.

General rates.

6. (1.) Section three of the Amendment Act, 1905, is hereby amended by substituting the words "one shilling and threepence" for the words "one shilling"; and by substituting the words "sevenpence and one halfpenny" for the word "sixpence."

(2.) Before making or levying, or ordering to be made or levied, a general rate in the case of sewered properties for a greater amount than one shilling in the pound of the annual rateable value thereof respectively, or in the case of unsewered properties, other than those mentioned in subsection three of section forty-nine of the principal Act, for a greater amount than sixpence in the pound of the annual rateable value thereof respectively, the consent thereto of the ratepayers of the district shall be obtained by the Board.

(3.) If such consent is obtained the Board may thereafter make and levy, or order to be made and levied, year by year general rates not exceeding the amount or respective amounts so consented to without any further consent of the ratepayers, and a consent given to a proposal to order such rates to be made and levied shall not be deemed to prevent the Board from itself making and levying such rates, and *vice versa*.

(4.) Nothing in either of the last two preceding subsections contained shall affect or prejudice the power of the Board to make and levy, or order to be made and levied, general rates in the case of sewered properties to the extent of one shilling in the pound of the annual rateable value thereof respectively, or in the case of unsewered properties, other than those mentioned in subsection three of section forty-nine of the principal Act, to the extent of sixpence in the pound of the annual rateable value thereof respectively.

Differential rate.

7. (1.) If any area is hereafter added to the district, in whatever manner and by whatever method (including an addition made by statute or by Proclamation), the Board may, if it thinks fit, by special order, declare that such area shall form and be a subdistrict, and thereupon the Board shall annually make and levy, or order to be made and levied, within such subdistrict a differential rate to such an amount in the pound upon the annual rateable value of the respective properties in such subdistrict as in the opinion of the Board is required to provide—

(a.) The interest on the cost of sewerage and storm-water works constructed or proposed to be constructed by the Board for the exclusive benefit of the subdistrict, together with one pound per centum on such cost to provide for sinking fund and renewals:

(b.) A proportion in the ratio which the total rateable value of the properties within the subdistrict bears to the total rateable value of the properties within the whole district (including the subdistrict) of the interest on the cost of sewerage and storm-water works used directly or indirectly for the benefit of the subdistrict, other than the works referred to in paragraph (a) hereof:

(c.) A proportion in the ratio aforesaid of the engineering and office expenses of the Board :

(d.) The cost of maintenance and reinstatements of sewerage and storm-water works within the subdistrict.

(2.) For the purposes of paragraph (b) of the last preceding subsection the cost of works shall be deemed to include capitalized interest on the loan-moneys used to pay such cost, and also ten pounds per centum of the actual cost to cover supervision of the works and the standing charges of the Board.

(3.) For the purposes of paragraphs (b) and (c) of subsection one hereof the value of the rateable properties shall be deemed to be the annual value as appearing in the valuation roll of the boroughs in which such properties respectively are situated, and in the case of any borough in which the system of rating on the capital value or the system of rating on the unimproved value is in force the annual rateable value of properties in that borough shall be deemed to be six pounds per centum of the capital value of such properties respectively as appearing in the valuation roll of such borough.

(4.) Not less than fourteen days before making any rate in pursuance of this section the Board shall make an estimate of the sum required in accordance with paragraphs (a), (b), (c), and (d) of subsection one hereof for the period for which the rate is proposed to be made and the amount of rate necessary to raise such sum, and shall publicly notify such estimate.

(5.) A certificate in writing, signed by the Drainage Engineer, as to the cost of works constructed, or the estimated cost of works proposed to be constructed, as aforesaid, and the determination of the Board, by resolution, as to the amount of differential rate required as aforesaid, shall be final and conclusive as to such cost and as to such amount of rate respectively :

Provided that in respect of works proposed to be constructed the Drainage Engineer may, after the construction thereof, certify the actual cost of such works, and such certificate shall, as to any rate thereafter made and levied, or ordered to be made and levied, take the place of any certificate previously given in respect of the same works, and the rate for the ensuing years may be adjusted accordingly.

(6.) The rate made and levied, or ordered to be made and levied, pursuant to this section shall be in lieu of the general rates provided for in section forty-nine of the principal Act, and accordingly such general rates shall not apply to the subdistrict, but, with that exception, all the provisions of the said Acts shall apply to the first-mentioned rate and generally to the subdistrict.

(7.) A separate account shall be kept by the Board showing all expenditure by the Board in the subdistrict.

(8.) Section fifty-four of the principal Act is hereby amended by repealing the word "general."

8. The consent of the ratepayers of the district to any proposal as required by this Act shall be deemed to be given if and whenever the proposal is carried at a poll as hereinafter provided, and for the

Consent of  
ratepayers.

purpose of obtaining such consent the following steps shall be taken :—

(a.) The Board shall publish in any newspaper circulating in the district once in each week for four successive weeks a notice stating—

(i.) In the case of a proposal to raise a loan under or by virtue of section three hereof, the sum proposed to be borrowed, and the particular purpose or purposes for which the loan is required, and the sum proposed to be borrowed for each such purpose, the proposed security, and the provision for repayment of the loan, and whether or not it is proposed to pay out of the loan the interest for the first year ; or

(ii.) In the case of a proposal to make and levy, or order to be made and levied, a rate or rates under or by virtue of section six hereof, the amount of rate or rates proposed to be made and levied, or ordered to be made and levied, distinguishing between the rates on sewered and unsewered properties respectively.

(b.) A poll of the ratepayers upon the proposal shall be taken as follows :—

(iii.) The Board shall publish not less than four times in any newspaper circulating in the district a notice stating the day on which the poll shall be taken. The first publication under this paragraph of the date of the poll shall be made not less than fourteen days before the said date, and the poll shall be taken not less than one nor more than three weeks after the day of the last publication of the notice mentioned in paragraph (a) hereof. Subject as aforesaid, the notice of the poll may be published as part of or concurrently with the notice mentioned in paragraph (a) hereof.

(iv.) On the day so appointed a poll shall be taken in like manner as the same would be taken for the election of a member of the Board, and every ratepayer of the district shall be entitled to vote accordingly.

(v.) The voting - papers shall contain particulars of the proposal as notified pursuant to paragraph (a) hereof or a statement giving the purport and effect of that notice.

9. If the total number of valid votes recorded in favour of the proposal is a majority of the total valid votes recorded at the poll, then, and not otherwise, the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly ; but if the proposal is not carried the Board shall not so proceed.

10. (1.) As soon as conveniently may be after the poll the Returning Officer shall send to the Minister of Internal Affairs for publication in the *Gazette* a notice of the number of votes recorded for and against the proposal, and in such notice shall

When proposal  
carried.

Result of poll to  
be gazetted.

declare the proposal to be carried or rejected, as the case may be.

(2.) A similar notice shall be published in some newspaper circulating in the district.

(3.) If the proposal is carried the notice thereof so published in the *Gazette* shall be conclusive evidence that such proposal is duly authorized, and that all proceedings and things under this Act in relation thereto have been lawfully taken and made.

(4.) If the Returning Officer knowingly inserts or causes or allows to be inserted in any notice published as aforesaid any false statement as to the number of votes recorded for and against any proposal to which such notice relates, he shall be liable to a fine not exceeding five hundred pounds, to be recovered summarily before a Magistrate under the Justices of the Peace Act, 1908.

11. (1.) The proposal to raise a loan and the proposal to make and levy, or order to be made and levied, rates exceeding one shilling in the pound or exceeding sixpence in the pound, as the case may be, may be submitted to a poll of the ratepayers pursuant to sections three and six hereof respectively either as one proposal or as separate proposals.

Polls may be separate or combined.

(2.) The proceedings in connection with any two or more proposals submitted separately may be combined, but, at any poll in connection with proposals submitted separately, separate voting-papers shall be used in connection with each proposal and shall be different in colour.

12. (1.) Section ten of the Amendment Act, 1902, is hereby amended by repealing that part of paragraph (2) thereof commencing from and including the words "the said local authority shall be deemed," and substituting therefor the following: "the said local authority shall, where no other sufficient powers exist, be deemed to be a local authority having rating-powers within the district in which such area is situated within the meaning of the Rating Act, 1908, and similarly, when the Board shall determine to make, levy, and collect its own rates, it shall be deemed to be such a local authority."

Extension of district.

(2.) The said section ten as hereby amended shall extend and apply to any area included within the district of the Board by statute.

(3.) This section shall be deemed to have been in force as from the date of the passing of the Amendment Act, 1902.

13. (1.) Subject as by this Act is expressly provided, the provisions of the Local Elections and Polls Act, 1908, and of section ten of the Amendment Act, 1914, shall, so far as applicable and with the necessary modifications, extend and apply to every poll held under or by virtue of this Act.

Acts incorporated.

(2.) Only ratepayers shall vote at any such poll.

14. (1.) Paragraph (b) of section ten of the Amendment Act, 1907, is hereby amended by repealing the words "not exceeding six," and substituting therefor the words "to be fixed by the Board from time to time not exceeding seven pounds ten shillings."

Interest on moneys payable to Board.

(2.) Paragraph (b) of section six of the Amendment Act, 1906, is hereby amended by repealing the words "after the rate of six pounds," and substituting therefor the words "after a rate to be fixed by the Board from time to time in any case or class of cases not exceeding seven pounds ten shillings."

Drains in common.

15. (1.) Section twenty-five of the Amendment Act, 1909, is hereby amended by adding thereto, after the words "drain in common" in subsection one thereof, the words "and whether all or any part of the drain in common is or is not already laid or in existence."

(2.) Any agreement already made which would have been valid if the foregoing subsection had been in force at the time of the execution thereof shall be deemed to be valid and effectual.

(3.) Subsection seven of section twenty-five of the Amendment Act, 1909, shall extend and apply to the case of two premises one of which is served by an existing drain.

Private-drain connections.

16. Without prejudice to the generality of the provisions of section eleven of the Amendment Act, 1912, that section shall be deemed to extend and apply to the case of a sewer laid in private premises.

Information to be furnished.

17. (1.) Every lessor, lessee, occupier, mortgagor, and mortgagee of any premises shall on demand furnish to the Board or any officer thereof the particulars of every lease and mortgage affecting such premises, and the terms of any occupancy, and all other information, whether of the same nature or not, within the knowledge of such lessor, lessee, mortgagor, mortgagee, or occupier as to the ownership of such premises.

(2.) Any lessor, lessee, mortgagor, mortgagee, or occupier who shall refuse to furnish such particulars or information as aforesaid, or shall wilfully furnish false particulars or information, shall be guilty of an offence, and section thirty-five of the Amendment Act, 1902, shall extend and apply thereto.

(3.) Nothing herein contained shall affect or prejudice any other right or remedy of the Board.

(4.) This section is in substitution for section fourteen of the Amendment Act, 1913, which section is hereby repealed.

Supervision charge.

18. Section nineteen of the Amendment Act, 1914, is hereby amended by repealing the words and figures "and section twelve of the Amendment Act, 1909, or either" in subsection one thereof, and substituting therefor the words and figures "section twelve of the Amendment Act, 1907, and section eleven of the Amendment Act, 1912, or any."

Premises beyond the district.

19. (1.) It shall be lawful for the Board by agreement with the owner of any premises situated beyond the district to permit the discharge either permanently or temporarily of sewage and drainage, or sewage or drainage, from such premises into any sewer vested in the Board, and the connection with such sewer of any drain from such premises, upon and subject to such terms and conditions as the Board shall determine.

(2.) Every such agreement shall bind the said premises and the owner for the time being thereof and his successors in title, and the

liability thereunder of such owner and his successors in title shall take effect notwithstanding, and shall have precedence over any charge or incumbrance on such premises.

(3.) A note or memorandum of such charge shall be entered in the Register of Charges within fourteen days after the execution of the agreement by the Board.

(4.) It shall be lawful for the owner of any such premises to enter into any such agreement as aforesaid.

(5.) Any agreement already entered into which would have been valid if this section had been in force at the time of the execution thereof shall be deemed to be valid and effectual.

20. (1.) The minute-books of the Board and of any committee thereof, the Register of Charges, and the Instalment-book 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. Evidence.

(2.) The provisions of the foregoing subsection shall extend and apply to a copy of an entry in any such minute-book, the Register of Charges, or the Instalment-book certified by the Secretary to be a true copy.

21. Where anything is omitted to be done or cannot be done at the time required by or under the said Acts, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under the said Acts, the Governor may, by Order in Council gazetted, at any time before or after the time within which such thing is required to be done extend such time, or may validate anything so done after the time required or so irregularly done in matter of form, or may make other provision for such case as he thinks fit: Validation of proceedings and extension of time.

Provided always that nothing in this section contained shall affect the provisions of paragraph (e) of section eleven of the Amendment Act, 1911.

22. (1.) Subsection three of section eighteen of the Amendment Act, 1913, is hereby amended by adding thereto, at the end thereof, the words "and to all moneys paid by the head-lessor to the Board in respect of works required by the Board and executed by it either by agreement with such head-lessor or in consequence of his default." Subleases.

(2.) The said section eighteen is also hereby amended by adding thereto the following subsection:—

"(5.) Nothing in this section or in the said section thirty-three shall affect or prejudice any contract."

(3.) Section thirty-three of the principal Act is hereby amended by adding thereto, at the end thereof, the words "and so on with reference to any subsequent subtenancy."

23. (1.) Section twenty-eight of the principal Act is hereby amended as follows:— Instalments.

(a.) By adding the words "and the interest payable therewith" after the word "instalments" and "instalment" respectively in subsection four:



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(b.) By adding thereto the following subsection :—

“ 5. (a.) If default is made for twenty-one days in payment of the whole or any part of any such instalment of principal money, the Board may, if it thinks fit, charge interest on the principal money, or such part thereof as shall for the time being be owing, at the rate of one pound per centum per annum in addition to the interest payable under or by virtue of the preceding provisions of this section until the said instalment or the part thereof in arrear shall be fully paid, such additional interest to be computed from the due date of the preceding instalment ; and such additional interest shall be recoverable accordingly ” :

(c.) By repealing the word “ thereon ” in subsection six, and substituting therefor the words “ payable therewith. ”

(2.) The provisions of the subsection contained in paragraph (b) hereof shall extend and apply to all instalments now or hereafter payable to the Board.

(3.) Section nine of the Amendment Act, 1906, is hereby amended by adding thereto, after the word “ instalment ” in subsection three thereof, the words “ or interest. ”

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