

New Zealand.



ANALYSIS.

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1922, No. 5.

AN ACT to amend the Land Drainage Act, 1908.

[23rd August, 1922.]

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 Land Drainage Amendment Act, 1922, and shall be read together with and deemed part of the Land Drainage Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. (1.) On presentation to the Governor-General of a petition under section three of the principal Act praying for the constitution of a district for the purposes of that Act, or for the alteration of the boundaries of an existing district or districts, the Minister of Internal Affairs shall gazette and publicly notify a notice setting out the proposal contained in the petition, and calling upon all persons affected to lodge their objections (if any) within one month after the first publication of such notice. Every such objection shall be in writing and shall be lodged in accordance with the terms of the notice.

On petition for constitution of drainage district Commission may be appointed to inquire into and report thereon.

(2.) After considering the petition and the objections so lodged (if any) the Governor-General may, if he thinks fit, direct a Commission, consisting of a District Valuer under the Valuation of Land Act, 1908, and two other fit persons (of whom one shall be an engineer in the employment of the Crown) to inquire and report to him upon the subject-matter of the petition and the objections thereto, and to make such recommendations therein as it thinks fit.

(3.) In particular, but without limiting the powers of the Commission, it may make such recommendations as it deems advisable with respect to the alteration of the boundaries of any area affected by the petition (whether by the inclusion in or exclusion from that area of any lands).

(4.) Where a Commission is appointed as aforesaid to inquire as to the proposal contained in a petition for the constitution of a district or for the alteration of the boundaries of a district, a district shall not be constituted or the boundaries of any district altered, as the case may be, save in such manner as the Governor-General deems to be in accordance with the report of the Commission.

(5.) Every Commission appointed under this section shall have the powers of a Commission under the Commissions of Inquiry Act, 1908.

No area to be in two districts at same time.

3. The powers conferred on the Governor-General by section three of the principal Act, to constitute any area a district under that Act or to alter the boundaries of a district, shall not be so exercised that any area is at any time comprised within two or more such districts.

District may be abolished where no Trustees holding office.

4. If in any district constituted under the principal Act a period of three years elapses during which there are no Trustees holding office under that Act the Governor-General may, by Order in Council, abolish the district, notwithstanding that a petition in that behalf may not have been presented as required by that Act.

First election of Trustees may be held before ratepayers list corrected.

5. For the purposes of the first election of Trustees for a district it shall not be necessary that the steps prescribed by subsection two of section six and by sections seven and eight of the principal Act (relative to the correction of the ratepayers list) shall have been completed; and if, on the day appointed for the election, the ratepayers list has not been corrected and signed by the Magistrate, as required by those sections, such list in the form in which it was made out by the Returning Officer, pursuant to subsection one of section six of the principal Act, shall be the roll of ratepayers for the district for the purposes of that election.

Additions, &c., to be made to ratepayers roll from time to time.

6. (1.) The Returning Officer of a district shall, during the period between the coming into force of the ratepayers roll in any year and the preparation of the next ratepayers list or lists pursuant to section six of the principal Act or section three of the Land Drainage Amendment Act, 1920, from time to time amend the said roll, or the roll for any subdivision, as the case may be, by adding thereto the name of any person who has become qualified to be enrolled as a ratepayer in the district or subdivision, as the case may be, and by erasing therefrom the name of any person who has ceased to be so qualified, and by making any necessary corrections

in the statement of the names, occupations, addresses, and qualifications of persons enrolled thereon.

(2.) Where the name of any person is added to the ratepayers roll or is erased therefrom for any reason other than the death of that person, or where the qualification of any person already enrolled is corrected, the Returning Officer shall forthwith give notice in writing of such addition, erasure, or correction by letter addressed to the person concerned, and in such notice shall notify the place where and the day, not being earlier than fourteen days after the date of the notice, when the Magistrate will sit to hear objections.

(3.) Any person who considers himself aggrieved by reason of any alteration of the roll pursuant to this section may object thereto by writing under his hand addressed to the Returning Officer, and on the day fixed the Magistrate shall hear and determine objections in the manner provided in subsection two of section eight of the principal Act.

(4.) Every alteration made pursuant to this section shall be initialled by the Magistrate if he has heard any objection relative thereto, and in every other case by the Returning Officer.

7. (1.) Where in any district the rate authorized by section thirty-one of the principal Act or by section two of the Land Drainage Amendment Act, 1913, is levied on a graduated scale according to a classification of the lands in the district, the number of votes to be exercised by any ratepayer at any election or poll shall be determined as follows:—

Voting-power of ratepayers in district where rates levied on a graduated scale.

(a.) If the value of his rateable property determined in accordance with this section does not exceed five hundred pounds, he shall have one vote:

(b.) If the value of his rateable property determined as aforesaid exceeds five hundred pounds but does not exceed one thousand pounds, he shall have two votes:

(c.) If the value of his rateable property determined as aforesaid exceeds one thousand pounds, he shall have three votes.

(2.) For the purposes of this section the value of any land shall be ascertained as follows:—

(a.) The value of any land classified as within paragraph (a) of section thirty-three of the principal Act shall be deemed to be the rateable value of that land (within the meaning of the Rating Act, 1908) as appearing on the valuation roll of the district:

(b.) The value of any land classified as within paragraph (b) of the said section thirty-three shall be deemed to be two-thirds of the rateable value of that land as appearing on the said valuation roll:

(c.) The value of any land classified as within paragraph (c) of the said section thirty-three shall be deemed to be one-third of the rateable value of that land as appearing on the said valuation roll.

(3.) Where any person is entitled to vote by virtue of being the occupier of lands of more than one class the number of votes that he may exercise shall be determined in accordance with the total value

of all such lands as ascertained in accordance with the foregoing provisions of this section.

(4.) Except as provided herein with respect to districts in which the rates referred to in subsection one hereof are levied on a graduated scale, the provisions of section nine of the principal Act shall continue to apply with respect to the election of Trustees, and shall also apply to all other elections and polls under the principal Act in districts where the said rates are levied on a uniform scale.

Person on ratepayers roll not entitled to vote if exempt from payment of rates.

8. Notwithstanding anything in section nine of the principal Act, no person shall be entitled to vote at any election of Trustees (other than a first election), or at any poll upon a proposal submitted to the ratepayers of the district, or shall be capable of being elected or of holding office as a Trustee, while the land in respect of which his name appears on the ratepayers roll is, by reason of the classification of that land for rating purposes, exempt from payment of all rates made and levied by the Board of the district.

On union of two districts Trustees to remain in office until first election for new district.

9. (1.) On the union of two or more adjoining districts pursuant to section fifteen of the principal Act, and until the Trustees elected at the first election for the new district come into office, the Trustees of the several united districts shall be the Trustees of the new district notwithstanding that they may exceed in number the number of Trustees prescribed by the principal Act.

(2.) The Trustees so continuing in office shall appoint one of their number as Chairman, and, failing such appointment, the Chairman of the district having the greatest rateable value shall be the Chairman.

Repeal.

10. Subsection two of section thirty-one of the principal Act is hereby repealed.

Section 33 of principal Act amended.

11. Section thirty-three of the principal Act is hereby amended by omitting from paragraph (a) and also from paragraph (b) the word "supposed," and in each case substituting the word "likely"; and by inserting in paragraph (c), after the word "receiving," the words "or likely to receive."

Provision as to maximum rate in districts where rates levied on graduated scale.

12. Where any rate levied by the Board pursuant to the authority conferred by section thirty-one of the principal Act or by section two of the Land Drainage Amendment Act, 1913, is levied on a graduated scale according to a classification of the rateable property in the district, the maximum rates prescribed by those sections respectively shall not be deemed to be exceeded if the proceeds derivable from such first-mentioned rate would not exceed the proceeds derivable from the maximum rate on a uniform scale levied on all the rateable property in the district, notwithstanding that the rate actually levied on the lands comprised in any class of such rateable property may exceed the maximum rates prescribed as aforesaid.

Rates may be levied separately in subdivisions of district.

13. In the case of a district divided into subdivisions, any rate levied by the Board of the district may, if the Board thinks fit, be levied separately in the several subdivisions, and in any such case the rates levied in one subdivision may vary from the rates levied in any other subdivision.

14. Section thirty-four of the principal Act is hereby amended by omitting from subsection five the words "of such seven days as last aforesaid," and substituting the words "of the time allowed for giving notice of appeal."

Section 34
of principal Act
amended.

15. Nothing in section thirty-eight of the principal Act or in any other provision of that Act shall be construed to restrict the authority conferred by the Local Bodies' Loans Act, 1913, on a Board under the principal Act, in common with other local authorities, to raise a special loan for the benefit of a defined part of a district (whether called by a distinctive name or not, or whether a legal subdivision or not), save that the aggregate amount of all loans raised for the benefit of any such defined part of a district under the principal Act, and for the time being outstanding, shall not exceed one-fourth of the value of the fee-simple of the land in that part, as appearing in the valuation roll for the time being in force.

Authority to raise
loan for defined
part of district.

16. Section forty of the principal Act is hereby amended by omitting the words "by special order."

Section 40
of principal Act
amended.

17. Subsection three of section sixty-seven of the principal Act is hereby amended by adding the following words: "and the value of any benefit which in the opinion of the applicant will accrue to the land of the adjoining owner by reason of the proposed works."

Section 67
of principal Act
amended.

18. Section sixty-eight of the principal Act is hereby amended by inserting, after the words "to such application," the words "with such modifications or alterations (if any) as may be mutually agreed to between the applicant and the adjoining owner and."

Section 68
of principal Act
amended.

19. Section eighty-seven of the principal Act is hereby amended as follows:—

Section 87
of principal Act
amended.

(a.) By omitting from subsection one thereof the words "enlarged or curtailed" wherever they occur:

(b.) By inserting, after the words "road districts" in the said subsection one, the words "river districts":

(c.) By inserting, after subsection one, the following subsection:—

Adjustment of
property, &c., where
boundaries of
district altered.

"(1A.) Where the boundaries of any district are altered, whether by the inclusion of any area therein or by the exclusion of any area therefrom, the Audit Office, or such other person as the Governor-General may appoint for the purpose, shall make an award for the adjustment of property, debts, liabilities, and engagements between the district and any counties, road districts, town districts, river districts, or other drainage districts affected, as the case may require":

(d.) By inserting, after subsection three, the following subsection:—

"(3A.) Where pursuant to any award under this section any sum is payable by the Board of any district under this Act or by any other local authority, the Board or such other local authority, as the case may be, may raise such sum or any part thereof by way of special loan under the Local Bodies' Loans Act, 1913, in the same manner as for a public work, without taking the steps described in sections eight to twelve of that Act."

Provisions of Fencing Act in regard to the repair of dividing-fences to apply to cleansing, maintenance, and repair of private drains between adjoining holdings.

20. Section six of the Land Drainage Amendment Act, 1920, is hereby amended by adding the following subsection:--

“(2.) Where any drain (not being a drain constructed, maintained, or controlled by a Drainage Board as aforesaid) is constructed between adjoining lands (whether such drain is throughout its course on the land of one adjoining owner or is partly on the land of one such owner and partly on the land of any other such owner or owners), such drain, together with any embankment adjacent thereto, shall for the purposes of the Fencing Act, 1908, be deemed to be a fence, and the provisions of sections thirty-one to thirty-five of the Fencing Act, 1908 (relating to the repair of fences), shall apply thereto accordingly as if the cleansing, maintenance, and repair of such drain, or the maintenance and repair of such embankment, were the repair of a fence.”

Governor-General in Council may confer on Drainage Board powers of River Board.

21. The Governor-General may from time to time, by Order in Council, confer upon any specified Drainage Board such of the powers of a River Board as he thinks fit; and thereupon the said Drainage Board shall have and may exercise the said powers accordingly, pursuant to the tenor of the Order in Council and subject to such restrictions, modifications, and conditions as may be therein expressed.

Power to rectify omissions or to validate irregularities, &c.

22. Where anything is omitted to be done or cannot be done at the time required by or under the principal Act, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under that Act, the Governor-General 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 make such other provision for the case as he thinks fit.