



ANALYSIS

<p>Title</p> <ol style="list-style-type: none"> 1. Short Title 2. Ratepayers list 3. Travelling allowances 4. Separate rates for operation of pumping units in portion of district 5. Classification of land for rating purposes 	<ol style="list-style-type: none"> 6. Repealing provisions as to acceptance of fees by officers 7. Establishment of renewal and replacement funds 8. Bylaws as to removal of trees, etc. 9. Removal of obstructions from water-courses or drains 10. Advances to owners by local authorities
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1956, No. 7

An Act to amend the Land Drainage Act 1908

[10 May 1956]

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 Land Drainage Amendment Act 1956, and shall be read together with and deemed part of the Land Drainage Act 1908 (hereinafter referred to as the principal Act).

2. Ratepayers list—Section eight of the principal Act is hereby amended by omitting from subsection three the words “The list when so corrected”, and substituting the words “The list, with such alterations (if any) as have been made therein under subsection two of this section”.

3. Travelling allowances—(1) The principal Act is hereby amended by inserting, after section thirteen, the following section:

“13A. (1) The Board is hereby declared to be a local authority within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) The Board may out of its funds, pay to members travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.”

(2) Section four of the Land Drainage Amendment Act 1920 is hereby repealed.

4. Separate rates for operation of pumping units in portion of district—(1) The principal Act is hereby amended by inserting, after section thirty-one, the following section:

“31A. (1) The Board may from time to time, by special order, define the boundaries of any area in its district which derives or is likely to derive benefit from the operation of specified pumping units for disposing of drainage and flood waters in that area, and may from time to time, by special order, alter the boundaries of any such area.

“(2) The Board may from time to time, in accordance with the provisions of section thirty-three of this Act, classify all lands within any area defined under subsection one of this section according to the benefit derived or likely to be derived from the operation of the said pumping units, and all the provisions of this Act relating to the classification of lands for rating purposes and to the fixing of the proportions in which rates are to be borne by the several classes of land shall apply with respect to any classification made under the authority of this section.

“(3) The Board may from time to time, for defraying the expenses incurred in maintaining and operating pumping units in any area defined under subsection one of this section, make and levy on all rateable property in that area a separate rate of such amount as will produce not more than would be produced by a uniform rate of twopence in the pound on the capital value of that rateable property, or its equivalent on the unimproved value or annual value.

“(4) From the proceeds of any such rate there may be deducted such sum as in the opinion of the Board is necessary to defray the cost of making and levying the rate and of the supervision and clerical work necessary in connection with the expenditure thereof, and the amount so deducted shall

form part of the ordinary revenue of the Board. The remainder of the rate shall be applied for the purpose for which it was levied.”

(2) Section twenty-nine of the Local Legislation Act 1954 is hereby repealed.

5. Classification of land for rating purposes—(1) The principal Act is hereby amended by repealing section thirty-three, and substituting the following section:

“33. (1) Within any district or subdivision where rates are to be levied on lands according to their classification, the Board may from time to time, as it thinks fit, classify all lands in the district or subdivision into classes, according to the degree of direct or indirect benefit received or likely to be received from works carried out or to be carried out by the Board or for the maintenance of which the Board is responsible.

“(2) There shall be not fewer than two nor more than six classes of land named A, B, C, D, E, and F respectively, and where, in the opinion of the Board, any land cannot reasonably be classed as receiving or likely to receive any benefit direct or indirect from the works, that land shall be placed in another class named Class G:

“Provided that, where in the opinion of the Board, because of the relationship between the costs of any benefit and the valuation of the land that benefits, or for other good reason, urban land may not equitably be placed in the same class as rural land, the urban land may be placed in a higher or lower class.

“(3) Rates shall be levied on the several classes of land (except those in Class G) in such proportion as the Board in each case appoints.”

(2) Section thirty-four of the principal Act is hereby amended as follows:

- (a) By omitting from subsection two the words “and the Board shall immediately thereafter cause to be given public notice of such classification”, and substituting the words “which list shall include a statement of the proportions in which the rates are to be imposed on the several classes of land to which the list relates; and the Board shall immediately thereafter cause public notice to be given of the classification, of the proportions in which the rates are to be imposed on the several classes of land,”.

(b) By inserting in subsection three, after the words “such classification”, the words “or fixing of proportions”.

(3) Section thirty-four of the principal Act is hereby further amended by adding to subsection three the following paragraph:

“(d) That the proportions in which the rates are proposed to be imposed on the several classes do not fairly represent the varying degrees of benefit to the land in the several classes, or that the proportion of the rates imposed on any particular class or classes is too great or too small.”

(4) The following enactments are hereby repealed, namely:

(a) Section four of the Land Drainage Amendment Act 1913:

(b) Section eleven of the Land Drainage Amendment Act 1922.

6. Repealing provisions as to acceptance of fees by officers—Section forty-four of the principal Act is hereby repealed.

7. Establishment of renewal and replacement funds—The principal Act is hereby amended by inserting, after section forty-eight, the following section:

“48A. (1) The Board may from time to time set aside any money to form a fund or funds for the repair, renewal, replacement, or improvement of any property, plant, fixtures, or appliances of the Board, or for the purpose of purchasing additional property, plant, fixtures, or appliances of the class for which the fund or funds is or are established.

“(2) The money so set aside and any other money payable into the fund or funds shall be paid into a separate bank account in the name of the Board.

“(3) The Board may from time to time apply the money forming the fund or funds only to the purposes aforesaid, or any of them, and the Board, until the money is required for any of those purposes, may invest any of that money in the following manner:

“(a) In New Zealand Government securities; or

“(b) On deposit in any bank lawfully carrying on the business of banking in New Zealand or in the Post Office Savings Bank or in any trustee savings bank; or

“(c) In the Common Fund of the Public Trust Office; or

“(d) In any other securities that may from time to time be authorised by the Governor-General in Council.”

8. Bylaws as to removal of trees, etc.—Section fifty of the principal Act is hereby amended by omitting from paragraph (d) of subsection one (as enacted by section four of the Land Drainage Amendment Act 1952) the words “drain cleaning purposes”, and substituting the words “the purposes of improving, maintaining, or cleaning drains”.

9. Removal of obstructions from watercourses or drains—
(1) Section sixty-two of the principal Act is hereby amended by adding to subsection one A (as inserted by section seven of the Land Drainage Amendment Act 1913) the following paragraph:

“(c) ‘Remove’, in relation to any obstruction consisting of trees, plants, weeds, or growths, includes, if the local authority so specifies, burning, poisoning, cutting, or treating, whether with or without the removal of the burnt, poisoned, cut, or treated portions.”

(2) Section sixty-six of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) In this section the term ‘remove’, in relation to any such obstruction, has the same meaning as in section sixty-two hereof.”

(3) Section sixty-two of the principal Act is hereby further amended by omitting from subsection two the words “comply with such order within fourteen days from the receipt thereof”, and substituting the words “commence the work specified in the order within fourteen days from the receipt thereof and to continue that work with all reasonable expedition or, where the local authority specifies a time within which the work must be completed, who fails to complete the work within the time specified in the order”.

10. Advances to owners by local authorities—The principal Act is hereby amended by inserting, after section sixty-three, the following section:

“63A. (1) The local authority may make advances to the owner of any land within the district for the purpose of enabling him to do all things necessary to comply with any order of the local authority under section sixty-two hereof or to cover in or improve any watercourse or drain on the banks of which that land is situated.

“(2) Instead of making any such advance to any owner, the local authority may, by agreement with him, itself do such things as aforesaid, and all money expended by the local authority pursuant to that agreement, together with an amount equal to five per cent of the amount so expended to cover the cost of supervision by the servants of the local authority, shall be deemed to be an advance for the purposes of this section.

“(3) The local authority and the owner may agree that the amount of any advance shall be repayable in one amount at a fixed time with interest at a rate not exceeding six per cent per annum, or by instalments extending over a number of years with interest not exceeding that rate. That agreement may contain any incidental provisions and may provide for the earlier payment of instalments, or any of them, on terms to be mentioned in the agreement:

“Provided that, where the agreement makes no provision as aforesaid for early payment of instalments, the local authority shall accept the whole of the unpaid instalments at any time when the same is tendered, and for the purpose of any such tender interest shall be paid up to and including the day of tender.

“(4) That agreement may, where the money is repayable in one amount, contain provisions for securing the repayment thereof; and, where the money is repayable by instalments, each such instalment shall for all purposes be deemed to be a rate, subject to the following conditions:

“(a) The owner of the land shall be deemed the person primarily liable for payment:

“(b) A separate book shall be kept by the Collector of Rates to the local authority, in which particulars of the instalments (distinguishing capital from interest), and of the works in respect of which they are payable, and of the dates for payment thereof, and of the names of the persons paying the same shall be entered; and that book shall be *prima facie* evidence of the correctness of its contents.”
