



NEW ZEALAND

ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. The district. 4. Constitution of Board. 5. Members of Board. 6. Election of Board. 7. Coming into office of members. 8. Vacancies. 9. How vacancies filled. 10. Ouster of office. 11. Chairman of Board. 12. Allowance to Chairman. 13. First meeting of Board. 14. Committees. 15. Chairman of meetings. 16. Quorum of Board and committees. 17. Questions to be decided by majority of votes. 18. Member not to vote on matter in which he has pecuniary interest. 19. Proceedings not invalidated by irregularities, &c. 20. Ordinary and annual meetings. 21. Allowances to members. 22. Rules as to proceedings of Board or committees, &c. 23. Board may provide offices. 24. Board may appoint officers and servants. 25. Acting officer. 26. By-laws. 27. Form of making by-laws. 28. Special orders. 29. Contracts of Board, how made. 30. Powers of Board. 31. Construction of trunk sewers, &c. | <ol style="list-style-type: none"> 32. Construction of treatment works, &c. 33. General powers of Board. 34. Compensation for lands taken damaged. 35. Powers of contributing authorities to connect sewers. 36. Works to be efficiently done. 37. Reticulation works. 38. Consent of Board required to construction of new sewers, &c. 39. Watercourses. 40. Board may construct drains, &c., for surface water. 41. Standards of purification. <p style="text-align: center;"><i>Accounts</i></p> <ol style="list-style-type: none"> 42. Books of accounts to be kept. 43. Books to be open for inspection to members of Board. 44. Moneys to be paid into bank. 45. Accounts to be kept in accordance with requirements of Audit Office. 46. Yearly balance sheet and statements. 47. Audit of accounts. 48. Abstract of accounts. 49. Board may establish an Imprest Account. 50. Superannuation and other benefits for employees. 51. Unauthorized expenditure. 52. Borrowing powers. 53. Preliminary expenses. 54. Annual estimate of Board's proposed expenditure. |
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| <p>55. Contributing authorities, annual assessments.</p> <p>56. How assessment to be calculated.</p> <p>57. Appeal.</p> <p>58. Production of documents <i>prima facie</i> evidence.</p> <p>59. Provisions as to payment and recovery of contributions from contributing authorities.</p> <p>60. Powers of contributing authorities in regard to payment.</p> <p>61. Power of Board to recover from contributing authorities in case of default.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>62. Restrictions on right to construct works and discharge sewage within harbour limits.</p> | <p>63. Commencement of action not to stop works of Board.</p> <p>64. Board may enter premises for purpose of inspection.</p> <p>65. Recovery of fines and penalties.</p> <p>66. Enforcement of by-laws.</p> <p>67. Property of Board not liable to be rated.</p> <p>68. Penalty for damaging sewer or drain.</p> <p>69. Offences under Act.</p> <p>70. Governor-General may extend time fixed by Act for exercising powers, &c.</p> <p>71. Government works not to be interfered with.</p> <p>72. Certain enactments not affected. Schedule.</p> |
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1951, No. 19—*Local*

AN ACT to provide for the drainage of parts of the North Shore comprising the Boroughs of Birkenhead, Devonport, Northcote, and Takapuna and also parts of the Waitemata County. Title.

[1 December 1951

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 North Shore Drainage Act 1951. Short Title.

2. (1) In this Act, unless the context otherwise requires,— Interpretation.

“ Board ” means the North Shore Drainage Board constituted by this Act:

“ Contributing authority ” means the local authority of any local district the whole or any part of which is for the time being comprised within the North Shore Drainage District:

“ District ” means the North Shore Drainage District constituted by this Act:

“ Harbour ” means and includes the Harbour of Auckland, the limits of which are defined by Warrant of the Governor-General dated the seventh day of May, nineteen hundred and twenty-five, and published in the *Gazette* dated the twenty-first day of May, nineteen hundred

and twenty-five, or in or by any Act, Warrant, or Order in Council made or passed in substitution therefor or extension thereof; and "harbour limits" shall have a corresponding meaning:

"Local authority" means the Council of a city, borough, or county or the Board of a town district or road district:

"Local district" means the district of a city, borough, county, town district, or road district:

"Secretary" means the Secretary for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Secretary, whether designated Acting Secretary or not:

"Trade wastes" means any liquid, either with or without particles of matter in suspension or in solution therein, which are being or may be discharged in the course of any commercial activity or trade or industrial process or operation or in the course of any activity or process or operation of a like nature, but does not include domestic sewage, condensing water, subsoil water, or surface water which is discharged direct to a surface water drain:

"Trunk sewer" means a sewer designed or intended to convey sewage from the whole or portion of a drainage reticulation system to the point of disposal.

(2) Where for the purposes of this Act it is necessary to ascertain or calculate the rateable capital value or population of any area, such value or population, as the case may be, shall be ascertained or calculated as at the thirty-first day of March in the preceding year.

The district.

3. (1) There is hereby constituted for the purposes of this Act a district, to be called the North Shore Drainage District, which shall comprise the boroughs of Birkenhead, Devonport, Northcote, and Takapuna and also part of the Waitemata County, and which is more particularly described in the Schedule hereto.

(2) Where at any time after the passing of this Act any two or more of the existing drainage reticulation systems (or any extension of or additions to such

systems hereafter made) within the district which are at present separate from and independent of one another shall become connected to and with a common or unified treatment and disposal works and outfall, or where any other areas within the district shall become connected to and with such a common or unified treatment and disposal works and outfall, those portions of the district so connected as aforesaid shall together constitute and be known and hereinafter referred to as the combined area, or, if more than one, combined areas, of the district.

(3) Any portion of the district which at the date of the passing of this Act is provided with a drainage reticulation system which is entirely independent in itself, having its own separate treatment or disposal works and outfall, shall, unless or until it is connected to or with any other such system as part of a combined area, be known and hereinafter referred to as a special area.

(4) The Governor-General may from time to time, on application made to him for that purpose by the Board, declare any other part of the district, in and for which it is proposed that an entirely separate drainage reticulation system complete in itself and having its own independent treatment or disposal works and outfall should be installed and provided, to be a special area.

(5) The Board may from time to time by resolution declare that any special area shall, as from a date to be specified in the resolution in that behalf (being not earlier than the date at which the Board is of the opinion that the connection hereinafter referred to can be made), be incorporated in the combined area or in any one particular combined area of the district, and the Board shall as soon as practicable after the passing of the resolution cause the special area to be connected by trunk sewer to and with the treatment or disposal works and outfall of such combined area, whereupon the special area shall thenceforth cease to be a special area and shall be included in and become part of such combined area.

(6) The Board may from time to time by resolution extend the boundaries of any special area or combined area by including therein any portions of the district

which may at any time hereafter be reticulated with and served by sewers connected with and draining into the outfall of the special or combined area.

(7) Where at any time after the passing of this Act the Board is of the opinion that it is advisable to make due provision for the future drainage of any portion of the district which for the time being is not within any special or combined area of the district, but that it is not for the time being practicable or expedient to provide that portion of the district with a drainage reticulation system, the Board may by resolution declare that portion of the district to be a future development area, and the Board shall then be entitled, either in and by the scheme of sewerage works for the whole of the district to be prepared by the Board in accordance with and pursuant to the provisions of section thirty of this Act, or by any amendment of such scheme, or otherwise, at such time as the Board shall think fit, to provide, construct, and install trunk sewers, treatment works, and outfalls of such capacity and dimensions as it may deem necessary to provide not only for the immediate drainage requirements of such special or combined area, but also for the drainage requirements of such future development area as aforesaid.

Constitution of Board.

4. (1) There shall be for the district a Drainage Board which shall be a body corporate under the name of the North Shore Drainage Board and shall have perpetual succession and a common seal, with power to purchase, take on lease, hold, deal with, and dispose of by sale, lease, or exchange real and personal property, and to do and suffer all that bodies corporate may lawfully do and suffer.

(2) The Board shall be deemed to be a local authority under the Public Works Act 1928, the Health Act 1920, the Local Bodies' Finance Act 1921-22, the Local Authorities (Members' Contracts) Act 1934, the Local Bodies' Loans Act 1926, and the Local Government Loans Board Act 1926, and, subject to the express provisions of this Act, the provisions of the said Acts shall extend and apply to the Board:

Provided that, for the purposes of subsection five of section three of the Local Bodies' Finance Act 1921-22, the first financial year of the Board shall be deemed to end on the thirty-first day of March, nineteen hundred and fifty-three.

(3) For the purposes of the Soil Conservation and Rivers Control Act 1941, the Board shall be deemed to be a Drainage Board, and the district shall be deemed to be a drainage district, constituted under the Land Drainage Act 1908.

5. (1) The Board shall consist of nine members to be elected in accordance with section six of this Act, of whom one shall be elected by the Birkenhead Borough Council, three by the Devonport Borough Council, one by the Northcote Borough Council, three by the Takapuna Borough Council, and one by the Waitemata County Council. Members of Board.

(2) On the petition of the Board or of any contributing authority, the Governor-General may, by Order in Council, at any time or from time to time, alter the number of seats or allocation of seats on the Board so as to ensure a more equitable representation of the respective interests of the local authorities whose local districts or parts of whose local districts are for the time being included within the district of the Board.

(3) On the petition of the Board or of any contributing authority, the Governor-General may at any time appoint any person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 to inquire into and report on the allocation of seats on the Board.

6. Within one month after the passing of this Act, and in the month of January in the year nineteen hundred and fifty-four and in the month of January in every third year thereafter, each of the local authorities referred to in the last preceding section shall hold a meeting and elect one or three, as the case may require, of its members to be members of the Board as provided in the said last preceding section. Election of Board.

7. (1) Every member of the Board elected under the last preceding section shall come into office on the first day of the month following that in which he is elected Coming into office of members.

and, unless his office sooner becomes vacant, shall continue in office until members elected at the next election under that section come into office.

(2) Every member elected to fill any extraordinary vacancy occurring on the Board shall come into office on the day following that on which he is elected and shall hold office only for the residue of the term for which his predecessor was elected.

Vacancies.

8. (1) The office of a member shall become vacant if he—

- (a) Dies or resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or is ousted of his office; or
- (b) Is absent without leave from four consecutive meetings of the Board; or
- (c) Ceases to be a member of the local authority by which he was elected:

Provided that in any such case he shall continue in office until his successor is elected.

(2) If any person does any act as a member after his office has become vacant under this section, he shall be liable to a fine of fifty pounds.

(3) Any vacancy occurring under this section shall be deemed an extraordinary vacancy.

How vacancies filled.

9. In the event of an extraordinary vacancy occurring at any time before the month fixed for the next election of members of the Board, it shall be filled by the local authority represented by the member whose seat has been vacated, and such local authority shall, as soon as practicable after such extraordinary vacancy shall have occurred, hold a meeting and elect another of its members to fill such extraordinary vacancy as aforesaid.

Ouster of office.

10. (1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Board is or has become incapable under this or any other Act of holding his office, any Magistrate's Court may grant a summons calling upon the person holding that office to show cause why he should not be adjudged to be ousted of that office.

(2) If on the return of the summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this or any other Act of

holding the said office, the Court may adjudge such person to be ousted of the office, and such person shall be ousted of that office accordingly.

(3) In any such proceeding the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of that Court shall, so far as applicable, apply generally to proceedings had under this section.

(4) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court, by certiorari or otherwise.

11. (1) The Board shall at its first meeting, and thereafter at the first meeting following the election of a new Board, appoint one of its members to be Chairman of the Board.

Chairman of Board.

(2) At every meeting for the election of Chairman the Secretary shall preside while the Chairman is being elected, or if there shall be no Secretary, then some person appointed by the Board, not being a member of the Board, shall so preside, and in the case of an equality of votes shall determine the election by lot in such manner as the Board determines.

(3) The Chairman shall come into office on his election and shall hold office until the election of his successor.

(4) The Chairman may resign his office by writing under his hand delivered to the Secretary, and in such case, or in the case of his ceasing from any cause to be a member of the Board, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a fresh Chairman.

(5) The Board may from time to time appoint one of its members to be Deputy Chairman either for a specified period or until the next annual meeting of the Board.

12. (1) The Chairman may be paid out of the funds of the Board such annual allowance, not exceeding two hundred pounds, as may from time to time be fixed by the Board and approved by the Minister of Finance, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being.

Allowance to Chairman.

(2) For the purpose of this section a person re-elected Chairman shall be deemed a new Chairman.

First meeting
of Board.

13. The first meeting of the Board shall be convened by such one of the Town Clerks for the time being of the Boroughs of Birkenhead, Devonport, Northcote, and Takapuna as may be agreed upon by the Councils of the said boroughs, or, failing such agreement, by the Minister of Internal Affairs, and shall be held at such time and place as he may appoint, and if no quorum is present within half an hour of the time fixed for the holding of such meeting the same shall stand adjourned from day to day at the same time and place until a quorum is assembled.

Committees.

14. (1) The Board may from time to time appoint standing or special committees consisting of two or more persons, and may relegate to any such committee any matters for consideration, or inquiry, or management, or regulation, and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Board except the power to borrow money, to make a rate, to make a by-law, to enter into a contract, to institute an action, or to make assessments upon contributing authorities.

(2) Any committee appointed under this section may include any person who is not a member of the Board.

(3) The Board may appoint a member of any committee to be the permanent Chairman thereof, and such power may be exercised by the committee where the Board, on the appointment of the committee, does not appoint a Chairman. Any committee may from time to time appoint a Deputy Chairman to act in the absence of the Chairman.

(4) The Board may at any time, and from time to time, discharge, alter, continue, or reconstitute any committee or discharge any member of a committee, and, if it thinks fit, appoint another member in his stead.

(5) Every committee shall, unless sooner discharged by the Board, be deemed to be discharged on the coming into office of the members elected at the general election of the whole Board next after the appointment of the committee.

(6) Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could itself have exercised or performed the same.

(7) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs.

15. At every meeting of the Board the Chairman if present or, in his absence, the Deputy Chairman (if any) shall be the Chairman. If the Chairman and the Deputy Chairman (if any) are absent from any meeting of the Board, then such member as the members of the Board then present shall choose shall be the Chairman of such Board meeting.

Chairman of meetings.

16. (1) A quorum of the Board shall consist of five members.

Quorum of Board and committees.

(2) The Board may fix the quorum of any committee appointed by it, and in default of its so doing the committee may fix the quorum.

(3) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.

(4) No business shall be transacted at any meeting of the Board or of any committee unless at least a quorum of members is present thereat during the whole of the time at which the business is transacted.

17. (1) All acts of the Board and of any committee, and all questions before the Board or any committee, may be done and decided at a meeting of the Board or committee by the majority of such members of the Board or committee as are present and vote at such meeting.

Questions to be decided by majority of votes.

(2) The Chairman of any meeting of the Board or of any committee shall have a deliberative vote, and in case of equality of votes shall have a casting vote also.

18. (1) A member of the Board or of any committee shall not vote or take part in the discussion of any matter before the Board or committee in which he has directly or indirectly, by himself or his partner, any pecuniary interest otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is neither a director nor the general manager.

Member not to vote on matter in which he has pecuniary interest.

(2) A member who knowingly offends against this section is liable to a fine not exceeding fifty pounds for every such offence, and upon conviction his seat on the Board and in any committee shall become vacant. Any vacancy under this section shall be deemed to be an extraordinary vacancy.

Proceedings not
invalidated by
irregularities,
&c.

19. No act or proceeding of the Board or of any committee or of any person acting as a member of the Board shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such member.

Ordinary and
annual
meetings.

20. (1) The Board shall hold such ordinary meetings at such times and at such places as it from time to time appoints.

(2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting.

(3) The Board shall hold an annual meeting in the month of July in each year.

Allowances to
members.

21. There may be paid to the Chairman and to the members of the Board out of the funds of the Board all amounts actually and reasonably expended by them in attending meetings of the Board or of any committee thereof, or travelling on the business of the Board pursuant to a resolution of the Board.

Rules as to
proceedings of
Board or
committees, &c.

22. The Board may by resolution, subject to the provisions of this Act, make rules—

- (a) Regulating the proceedings of the Board and any committee and the conduct of meetings thereof respectively, and the right of persons to attend such meetings:
- (b) Regulating the adjournment and postponement of meetings of the Board, and the manner in which resolutions may be revoked or altered:
- (c) Prescribing the form and the mode and time of service of notices of meetings:
- (d) Regulating debates:
- (e) Providing for the calling of special meetings, and the notice to be given to members:

- (f) Providing for the notice to be given to members of extraordinary business to be transacted at any ordinary meeting:
- (g) Directing minutes to be kept of all proceedings of the Board, and prescribing the mode of confirmation, inspection, and custody of the same:
- (h) Providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation thereof:

Provided that no resolution made or passed under this paragraph shall affect any person acting in good faith, and taking or to take any estate, interest, or advantage under any document having or about to have the common seal affixed thereto:

- (i) Prescribing the powers and duties of officers and servants:
- (j) Prescribing forms of and in connection with any proceedings of the Board:
- (k) Concerning anything incidental to any of the matters hereinbefore referred to.

23. The Board may from time to time provide and maintain public offices, within or without the district, with fitting furniture for the same, for holding its meetings and transacting its business and for the use of its officers and for any other purposes, and may purchase or take on lease land or buildings for such purposes, or may cause buildings to be erected on any land belonging to or leased to the Board, or any such building to be added to or improved.

Board may provide offices.

24. (1) The Board may by resolution from time to time appoint and employ fit persons to be Engineer, Chemist, Secretary, Treasurer, and all such other officers and servants as it thinks necessary to assist in the execution of this Act, and may pay such persons such salaries and allowances out of the funds of the Board as it thinks fit.

Board may appoint officers and servants.

(2) One person may hold two or more such offices.

(3) No person shall be appointed as Engineer to the Board, or, if there are more engineers than one, as the chief or principal engineer unless he is registered as an engineer under the Engineers Registration Act 1924.

(4) Every person appointed to receive any moneys payable to the Board shall give to the Board sufficient approved security for the faithful execution of his office and the due accounting for all moneys received by him on behalf of the Board:

Provided that, in lieu of or in addition to taking security from any officer, the Board may provide against any losses that may arise in the event of his dishonesty by taking out a guarantee policy and paying the premiums thereon, or by creating a special fund for the purpose, or partly by one method and partly by the other.

(5) In lieu of appointing or itself employing an Engineer or Chemist as aforesaid, the Board may engage or retain at such remuneration as it thinks fit the services of such consulting engineers, industrial chemists, technicians, and other experts as may, in the opinion of the Board, be necessary to assist in the execution of this Act; or the Board may, at its option, enter into an agreement or agreements with any other drainage or local authority or other organization for the use by the Board from time to time of the services of such engineers, chemists, technicians, and other experts as may be employed by such other authority or organization on such terms and at such remuneration as may be mutually agreed upon.

Acting officer.

25. During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of that officer may be performed and exercised by an acting officer appointed by the Board, and any such appointment may be either general or for some occasion only.

By-laws.

26. (1) The Board may from time to time make by-laws for all or any of the following purposes:—

(a) To regulate the management and use of inlet appliances giving access to the sewers and drains of the Board, including grids, and to prevent the putting of anything into such sewers or drains, or allowing anything to enter such sewers or drains by means of such appliances, save such matters as may be carried in with water entering in the course of the legitimate use of such appliances:

- (b) Regulating sanitary plumbing and drainage throughout the whole of the district:
- (c) Protecting from damage, injury, or misappropriation any property belonging to the Board or controlled by it and situate within or beyond the district.

(2) The Board may by any such by-law provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the penalty, and shall in no case exceed the sum of twenty pounds for a single offence or the sum of five pounds a day for a continuing offence.

(3) Any by-law made by the Board shall within the district override any by-laws on the same subject-matter made by any local authority.

(4) Any local authority may, with the consent of the Board, undertake within its own district the enforcement and administration of any by-laws made by the Board, and in such case all fines imposed for breaches of the Board's by-laws within the district of the local authority shall, subject to the provisions of section thirteen of the Finance Act 1927 (No. 2), be paid to the local authority and be dealt with by it as if they were fines imposed in respect of breaches of the by-laws of the local authority.

27. By-laws of the Board shall be made only in the manner and subject to the conditions following:—

Form of making
by-laws.

- (a) They shall be made only by special order:

Provided that in publicly notifying the resolution making the order it shall not be necessary to set forth the whole of the proposed by-law if the object or purport of it is stated, and if a copy of the proposed by-law is deposited at the office of the Board or at some other place in the district which shall be specified in the notification, and is open to inspection by the public during office hours for at least seven days immediately preceding the meeting at which the resolution is to be confirmed:

- (b) A copy of any proposed by-law shall be sent by the Board to each of the contributing authorities at least twenty-one days before

the date of the meeting of the Board at which the resolution making the proposed by-law is to be submitted for confirmation:

- (c) They may be amended before confirmation of the special order making the by-laws:
- (d) They shall have the common seal of the Board affixed thereto:
- (e) They shall be sent to the Minister of Health within seven days after the making of the special order:
- (f) Subject to the next succeeding paragraph, they shall come into force on a day to be named therein or in the special order making them, being a day not earlier than three months after the making of the special order in the case of by-laws made under paragraph (a) of subsection one of the last preceding section, and not earlier than one month after the making of the special order in the case of by-laws made under paragraph (b) or paragraph (c) of the said subsection one:
- (g) They may within three months after the making of the special order, by notice in the *Gazette*, be in whole or in part disallowed or amended by the Minister of Health.

Special orders.

28. Every special order made hereunder may be made and proved in the same way, with the necessary modifications, as a special order of a Borough Council is required to be made, and may be proved under the Municipal Corporations Act 1933.

Contracts of Board, how made.

29. (1) The Board may from time to time enter into such contracts with any such persons as it thinks fit for the execution of any works directed or authorized by this Act to be done by the Board or for furnishing materials or for any other thing necessary for the purposes of this Act.

(2) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board.

(3) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

(4) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board.

(5) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

30. (1) At its first meeting to be held pursuant to the provisions of section thirteen of this Act, the Board shall pass a resolution authorizing the preparation of a scheme of sewerage works for the whole of the district and directing that such detailed investigations, whether technical or otherwise, as in the opinion of the Board may be necessary for enabling such scheme of sewerage works to be prepared as aforesaid be forthwith made and carried out. Such resolution shall also direct—

Powers of Board.

(a) That the scheme of sewerage works for the whole of the district to be prepared in pursuance thereof as aforesaid shall make provision for, *inter alia*, and shall indicate in particular—

(i) The main trunk sewer systems proposed for the district;

(ii) The boundaries of the watershed areas which it is intended should be drained into and served by each trunk sewer;

(iii) The levels and positions of all intakes into such trunk sewers;

(iv) The proposed grades and capacities of all such trunk sewers;

(v) The position of the outfall, or, if more than one, the positions of the outfalls, intended to be used for the disposal of all effluents; and

(vi) The location and general design of all proposed treatment works, utilization plants, and other sewerage works:

(b) That such further investigations, research, and experiments as the Board thinks fit be respectively made, entered upon, and conducted for the purpose of determining, after taking into consideration the technical and economic possibilities thereof, the extent (if any) to which it may be practicable to utilize, in the manufacture and production of organic fertilizers, sewage sludge produced from the treatment of sewage in the manner which it is recommended should be adopted for the district as hereinafter provided combined with such other organic wastes as may from time to time become available to the Board for that purpose.

(2) The Board may engage or retain at such remuneration as it shall think fit the services of such consulting engineers, industrial chemists, technicians, and other experts as, in the opinion of the Board, may be necessary in order to enable the investigations and the scheme of sewerage works referred to in the last preceding subsection to be respectively made, carried out, and prepared as aforesaid.

(3) Within twelve months from the date of its first meeting the Board shall cause to be prepared a report, with recommendations, as to the scheme of sewerage works which shall have been prepared for the whole of the district pursuant to the resolution in that behalf referred to in subsection one of this section, and such report shall indicate, *inter alia*, in particular—

(a) The various stages at and to which it is proposed that the said works should be constructed and developed:

(b) The method of treatment of sewage which it is recommended should be adopted for the district:

(c) The action which is then being taken or which it is recommended should be taken for the purpose of improving the standard of treatment with respect to existing outfalls within the district until such time as the Board's scheme of sewerage works for the whole of the district can be put into operation:

(d) The result of the investigations, research, and experiments respectively made, entered upon, and conducted pursuant to the resolution in that behalf directing the same referred to in paragraph (b) of subsection one of this section, and the recommendations (if any) made in connection therewith and relative thereto.

(4) The report and recommendations to be prepared in accordance with the provisions of subsection three of this section shall be submitted to and considered by the Board at the first meeting thereof after such report and recommendations are available, but before such report or any recommendation therein is adopted by the Board copies thereof shall be submitted for the approval of and to all the contributing authorities, the Minister of Health, the Minister of Marine, the Minister of Works, and the Auckland Harbour Board:

Provided that nothing in this subsection shall be deemed to prevent or preclude the Board from taking, with the approval of the Minister of Health, the Minister of Marine, the Minister of Works, and the Auckland Harbour Board, such immediate action as the Board thinks fit for the purpose of improving the standard of the effluent or effluents discharged from existing outfalls within the district.

(5) Upon receipt of a request from any of the persons or authorities referred to in the last preceding subsection, the Board shall submit explanations regarding any of the proposals outlined in the said report which may require to be further elucidated.

(6) If within three months of the submission of copies of the said report and recommendations no formal objection in writing is received by the Board from any person or authority to whom the same has been submitted for approval as aforesaid, and if within the aforesaid time the written approval of the Minister of Health, the Minister of Marine, and the Minister of Works, and of the Auckland Harbour Board, is obtained, the scheme of sewerage works recommended in such report shall formally be adopted by the Board at its first available meeting after the expiration of the period aforesaid as the main sewerage scheme for the district.

(7) If any formal objection in writing is received by the Board from any such person or authority as aforesaid, the Board shall forthwith convene a conference of representatives of the persons or authorities concerned for the purpose of deciding the extent (if any) to which it may be desirable to amend or alter the scheme of sewerage works recommended by the Board. The proceedings of such conference shall be regulated by an independent Chairman who shall be nominated for the purpose by the Minister of Health. On receipt of a report from the Chairman on the proceedings of the conference the Board shall, if required in the report so to do, amend the scheme of sewerage works recommended in the Board's report so that the revised scheme shall comply with the wishes of the representatives of the persons or authorities represented at such conference, and the Board shall thereafter formally adopt the recommended scheme, with such amendments as aforesaid, as the basis for the main sewerage scheme for the district.

(8) Within three years after the adoption by the Board in the manner hereinbefore provided of the recommended scheme as the basis for the main sewerage scheme for the district as aforesaid, the Board shall cause to be put into operation all such proper, efficient, and approved methods of treatment of sewage within the district as are sufficient and effective to ensure that the waters of the Auckland Harbour and the Hauraki Gulf are not polluted by effluents discharged from any of the outfalls owned and operated by the Board to an extent amounting to an infringement of the standards and conditions for the time being fixed under section forty-one of this Act.

(9) In addition to but without in any way derogating from all or any of the powers aforesaid, the Board shall have the sole right within the district—

- (a) To plan for the installation of and to construct all trunk sewers which in the opinion of the Board are necessary from time to time in order to provide for the complete or partial main trunk sewer systems of the district, as the case may be;

- (b) To prescribe and define those portions of the district which are from time to time to be included within the main drainage reticulation system for the district; and
- (c) To determine the appropriate levels for and the points at which the sewers serving those portions of the district referred to in the last preceding paragraph shall be connected to the Board's trunk sewers.

(10) The Board shall have the sole right within the district to construct, maintain, control, and manage all trunk sewers, pumping stations, storage tanks, outfalls, and sewage treatment and sewage utilization plants, and also to maintain and manage and effect such alterations as may be considered advisable to all existing sewage treatment plants and outfalls whilst the same continue to be in use and operation:

Provided that nothing in this Act shall operate to prevent the establishment or maintenance of works for the treatment or disposal of trade wastes, refuse, or other substances which the Board's drainage system is not designed to receive or deal with or which the Board will not permit to be discharged into such system except upon such conditions as shall from time to time be determined by the Board.

(11) Where any trunk sewer, pumping station, storage tank, storage culvert, storage tunnel, outfall, sewage treatment plant, or sewage utilization plant has already been constructed within the district by some local authority, it shall be taken over by and vested in the Board at such price and upon such terms and conditions as may be agreed upon between the Board and the local authority; but, in the event of their being unable to agree the matter shall be referred to a single arbitrator who shall be an engineer nominated for the purpose by the President for the time being of the New Zealand Institute of Engineers. Every such arbitration shall be conducted in the manner provided by the Arbitration Act 1908.

31. The Board may from time to time construct, maintain, and operate within or outside the district all such trunk sewers, pumping stations, storage tanks, outfalls, treatment works, utilization works, and

Construction of
trunk sewers,
&c.

other works and things as may in the opinion of the Board be advisable for the proper and efficient drainage of the district:

Provided that no such works shall be constructed within the district or sphere of influence of any other Drainage Board except with the consent of that other Board, which consent shall not be unreasonably or arbitrarily withheld.

Construction of
treatment
works, &c.

32. (1) The Board shall as soon as practicable after the passing of this Act construct—

- (a) Common or unified treatment works for the purpose of treating sewage from the district (being either domestic sewage or domestic sewage and trade wastes as the Board may at the time of construction of the said works determine), and such works shall be so designed, constructed, and operated as to ensure that at all times the effluent conforms to the standards and conditions for the time being fixed under section forty-one of this Act;
- (b) Trunk sewers and pumping stations for the purpose of conveying sewage from any part of the district provided with a drainage reticulation system to such common treatment works; and
- (c) An outfall sewer or outfall sewers for the purpose of discharging into the sea the effluent from such treatment works at such place or places as may be required and approved pursuant to the Harbours Act 1950.

(2) No sewage (including within that term either domestic sewage alone or trade wastes alone or domestic sewage and trade wastes) shall be discharged from any portion of the district into the waters of the Auckland Harbour or of the Rangitoto Channel or of the Hauraki Gulf except through outfalls owned and operated by the Board or by any person operating pursuant to subsection ten of section thirty of this Act:

Provided that, subject to the provisions of any enactment relating to pollution or nuisance, such sewage from the district may be discharged from any existing outfall

until such time as the Board has completed the works necessary to convey such sewage to any common or unified treatment works:

Provided also that this subsection shall not apply to existing storm water overflows forming part of the sewerage system of any local authority.

(3) The Board shall be entitled to occupy, free of rent or charge to any person or corporation, all lands in the Auckland Harbour on, over, or under which any of the said sewers or works are constructed or laid.

(4) The Board may, subject to compliance with section one hundred and seventy-five of the Harbours Act 1950, and with the precedent consent of the Auckland Harbour Board, reclaim any land in the Auckland Harbour that is necessary for the Board's drainage operations, as if the Board were a local authority under the Harbours Act 1950, and any land so reclaimed may without the authority of any special Act be transferred to the Board by the Auckland Harbour Board or may, as the case may require, be vested in the Board under the said section one hundred and seventy-five.

33. (1) The Board may from time to time, in addition to its powers under the Public Works Act 1928, by itself, its surveyors, engineers, agents, officers, and workmen, exercise the following powers or any of them, and may execute, do, or cause to be executed or done any of the following acts, matters, or things:—

General powers
of Board.

(a) Break up the soil of any roads, streets, ways, or footpaths, and excavate and sink trenches and make and construct tunnels and subways for the purpose of laying down, making, constructing, altering, cleansing, maintaining, or repairing trunk sewers:

Provided that before interfering with any such road, street, way, or footpath the Board, except in cases of emergency, shall give one week's notice in writing to the local authority having control thereof, and shall in any case with all convenient speed reinstate and make good any road, street, way, or footpath that may be broken up or, at the option of the local authority, pay to it the cost of such reinstatement and making good:

(b) Without any previous payment, tender, or deposit—

(i) Enter upon and use any land other than land occupied as a garden or ornamental shrubbery for the purpose of taking any earth, stone, clay, or scoria therefrom:

Provided that in the case of lands held for any public purpose within the meaning of section two of the Public Reserves, Domains, and National Parks Act 1928, this power shall not be exercised without the consent of the controlling authority, but such consent shall not be unreasonably or arbitrarily withheld, and in the case of other land this power shall not be exercised until twenty-four hours' notice of intention so to do has been given to the occupiers;

(ii) Enter upon and use any land adjacent to the site of any trunk sewer hereby authorized to be constructed, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary roads or approaches to any works or temporarily storing any material therefor; and

(iii) Enter upon any lands or premises within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose to bore therein:

(c) Make or construct the said trunk sewers, or any part thereof, upon or under any lands or buildings, subject to the following conditions:—

(i) A plan and description of the trunk sewers, showing how they affect any such land or buildings, shall be deposited for public inspection at the office of the Board;

(ii) The Board shall give notice in writing to the occupier, and also to the owner (when known), of the land or buildings of the intention to construct the trunk sewers, and shall refer in the notice to the plan and description, and state where they are on view. In the

case of unoccupied land or buildings of which the owner is not known, the notice may be served by being affixed in a conspicuous place thereon or thereto;

(iii) If within one month after such notice is given the said owner or occupier serves on the Board a written objection to the proposed work, the Board shall appoint a day for hearing the objection, and shall give notice of the day so appointed to the objector; and

(iv) The Board shall hold a meeting on the day so appointed, and may, after hearing any person making such objection, if present, determine to abandon the work proposed, or to proceed therewith with or without such alterations as the Board thinks fit:

- (d) Erect and use any buildings, structures, machinery, manholes and other entrances, light and lamp holes, ventilating grids, and other works and things of every description in connection with drainage and sanitation in, upon, or under any public or private street or public place within or without the district:
- (e) Carry any ventilating shaft, pipe, or tube up or upon any external wall of any building, whether private or public, and affix the same thereto:

Provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any windows situated within a distance of thirty feet therefrom, and, where attached to a house, shall be higher than the eaves or parapet thereof:

- (f) During the construction of its works, use any private drain or watercourse within or without the district to carry water from such works:
- (g) Treat and deal with, in such manner as to it shall seem best, all sewage, refuse, and other matter, whether for the purpose of deodorizing, disinfecting, or destroying the sewage, refuse, or other matter, or of converting the same into an organic fertilizer or other marketable product and selling or otherwise disposing of the same,

and shall not be liable, except in compensation under section thirty-four of this Act, for any nuisance or injury necessarily created or caused in so doing; and in particular, and without restricting the general powers herein given, it shall have power to treat sewage, refuse, and other matter by any treatment process, septic tanks, or electricity, and, unless prohibited by the Governor-General by Order in Council from so doing, may ship sewage sludge and discharge it into the sea:

Provided that the Board shall not, without the precedent consent in writing of the Auckland Harbour Board, discharge any sewage, refuse, sludge, or other matter in any place within the limits of the Auckland Harbour or in any place where the same might be carried by wind or tide within the limits of the said harbour, or in any case within three miles from any foreshore or in such a manner that it will be likely to be carried on to any foreshore, or in any tidal waters outside the limits of the Auckland Harbour except with the prior consent of the Minister of Marine and in compliance with such conditions as he may impose:

(h) Acquire and operate ships, boats, barges, cranes, and lorries, and other equipment for the purpose of removing, handling, or disposing of sewage, sludge, refuse, or similar matter.

(2) The Board shall have power to acquire by licence permission to use any land for the purposes for which land may be acquired, and any land acquired by it may, subject to compliance with the provisions of section thirty-five of the Public Works Act 1928, be let or leased by the Board by public auction, or public tender, or private contract, as it deems proper, for such term or terms, at such rent or rents, and upon and subject to such terms and conditions in every respect, as the Board thinks fit.

34. Every person having any estate or interest in any lands taken under the authority of this Act for any works, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby

Compensation
for lands taken
or damaged.

given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act 1928.

35. For the purpose of carrying off any sewage from any part of its district within the combined area or combined areas of the district, every contributing authority may from time to time connect sewers and drains with the said trunk sewers:

Powers of contributing authorities to connect sewers.

Provided that twenty-eight days' notice in writing shall be given to the Board of the intention of the contributing authority to exercise the powers conferred by this section; and there shall be attached to the notice complete plans and specifications of the sewer or sewers referred to in the notice:

Provided also that no such connection shall be made unless the Engineer to the Board is satisfied that the sewer or sewers referred to therein are fit and proper to be so connected and to form part of the drainage system.

36. In making any such connection the contributing authority shall cause it to be done in a skilful, efficient, and workmanlike manner, and so that the efficiency and construction of the trunk sewers may be in no way impaired, and to the approval of the Engineer to the Board.

Works to be efficiently done.

37. (1) Any plan or scheme proposed or devised by any local authority after the passing of this Act for the drainage reticulation of the whole or any portion of the district of that local authority within the district shall, before the plan or scheme or any work in connection therewith is proceeded with or put into operation, be first submitted to and approved by the Board, and the Board may, and shall if required by such local authority so to do, but at the cost of the local authority requiring the same, furnish all such engineering, technical, and other services and assistance as may be requisite and necessary in order to provide for and carry out the proper and efficient installation of such drainage reticulation works or system.

Reticulation works.

(2) The Board may, at the request and cost of any local authority and if the Board thinks fit and proper so to do, undertake and carry out repairs, maintenance,

alterations, or improvements to any existing drainage reticulation works in the whole or any portion of the district of such local authority within the district.

(3) The Board may undertake and carry out, maintain, and operate drainage works, whether in relation to storm water or sewage, for the benefit of any local districts or areas within or adjacent to the district, and may enter into and enforce agreements with local authorities and other persons for the payment of the whole or any portion of the cost of construction, maintenance, or operation of any such works:

Provided that the Board shall not carry out in the district of any local authority any works in respect of storm water except by agreement with the local authority.

Consent of Board required to construction of new sewers, &c.

38. No new trunk sewers, pumping stations, storage tanks, outfalls, treatment works, or utilization works shall be constructed or installed within the district except by the Board, and no alteration, change, or extension shall be made in any existing drainage system within the district except with the precedent consent and approval of the Board in writing first had and obtained. If any question arises as to whether the Board has unreasonably withheld its approval, the matter shall be referred to the Minister of Health, whose decision shall be final.

Watercourses.

39. The Board may utilize the non-tidal part of any natural watercourse for the discharge of storm water overflows from its trunk sewers, but so that the discharge into or from any such watercourse shall not be or grow to become a nuisance. Subject as aforesaid, the non-tidal part of any watercourse so utilized shall be under the control and management of the Board.

Board may construct drains, &c., for surface water.

40. (1) The Board may construct drains for the removal of surface water, or control, alter, and improve any existing drains for that purpose, or any natural watercourse or channel, but all such works shall be done only with the approval of the local authority or authorities within whose district or districts the drain, watercourse, or channel is situated and at the cost of the local authorities affected, and the Board and any such local authority may enter into and carry out agreements for that purpose.

(2) Except with the approval of the Auckland Harbour Board, no new drain for the discharge of surface water into any harbour under the control of the said Harbour Board shall be so constructed or used, and no existing drain, natural watercourse, or channel discharging or intended to discharge surface water into any such harbour shall be so used, controlled, altered, or improved, as to cause pollution of the harbour into which it discharges or is intended to discharge:

Provided that this subsection shall not apply to existing storm water overflows discharging into storm water drains, natural watercourses, or channels, and shall not affect the powers of local authorities under section two hundred and twenty-six of the Municipal Corporations Act 1933 in respect of leading surface water into streams and watercourses so long as the discharges from any such drain, natural watercourse, or channel shall not be or grow to become a nuisance.

41. (1) As soon as may be practicable after the passing of this Act, the Auckland Harbour Board, after obtaining the concurrence of the Minister of Health and the Minister of Marine, shall notify the Board, and all local authorities who may then be discharging or permitting the discharge of sewage or sewage effluents to any waters within harbour limits, of the standards and conditions to be complied with in respect of the discharge of sewage or sewage effluents to any such waters as aforesaid.

Standards of
purification.

(2) In like manner the Minister of Marine shall notify the standards and conditions to be maintained and complied with in respect of any such discharge to waters outside harbour limits but within or contiguous to the district of the Board.

(3) Upon receipt of any such notification from the Auckland Harbour Board or from the Minister of Marine, as the case may be, the Board or the local authority concerned shall, as soon as practicable thereafter, commence and with all reasonable expedition complete such works as may be necessary to ensure that the standards and conditions so notified to it are and shall continue to be complied with and maintained.

(4) The Auckland Harbour Board, after obtaining the concurrence of the Minister of Health and the Minister of Marine in the case of tidal waters within harbour limits, and the Minister of Marine in the case of tidal waters beyond harbour limits, may at any time and from time to time notify the Board and any such local authority as aforesaid of any further or different standards and conditions in respect of the discharge of sewage and sewage effluents to such waters as aforesaid; and thereupon the Board, or the local authority concerned, shall, as soon as practicable thereafter, commence and with all reasonable expedition complete such works as may be necessary to ensure that those further or different standards and conditions are and shall thereafter continue to be complied with and maintained.

(5) The Minister of Health, the Minister of Marine, or the Auckland Harbour Board may at any time make application to the Supreme Court or a Judge thereof by summons for an order requiring compliance with the standards and conditions fixed as aforesaid, and the infliction of such penalties as the Court or a Judge thereof may deem appropriate for failure to so comply. Without prejudice to or limitation of any other remedy, any such failure shall be an offence within the meaning of this Act.

(6) Nothing in section two hundred and forty-one of the Municipal Corporations Act 1933 shall apply to any discharge of sewage or sewage effluents in accordance with this Act.

(7) For the purposes of this section, the expression "sewage or sewage effluents" includes trade wastes or any noxious matter.

Accounts

Books of accounts to be kept.

42. The Board shall cause books to be provided and kept and true and accurate accounts to be entered therein of all sums of money received and paid under the authority of this Act and of the several purposes for which sums of money have been received and paid.

Books to be open for inspection to members of Board.

43. Such books shall at all reasonable times be open to the inspection of any member of the Board or of any contributing authority or any person appointed by it, who may take copies of or extracts from the same; and any person having the custody of the said books who

does not, on the reasonable demand of any member of the Board, or of any contributing authority or any person appointed by it, permit him to inspect or take copies of or extracts from the same shall for every such offence be liable to a fine not exceeding five pounds.

44. (1) All moneys belonging to the Board shall, within three days after they have come into the hands of the Treasurer, be paid into an account of the Board at such bank as the Board from time to time appoints. Moneys to be paid into Bank.

(2) No moneys may be withdrawn from the bank except by the authority of the Board and by cheque signed by the Chairman or one member and by the Treasurer of the Board.

45. (1) The Board shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that— Accounts to be kept in accordance with requirements of Audit Office.

(a) A General Account shall be kept and credited with all moneys not required by or under this Act to be carried to any other account, and debited with expenditure which is not required by or under this or any other Act to be charged, or which is not otherwise properly chargeable, against any other account; and

(b) Separate accounts shall be kept and credited with all moneys raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against such accounts.

(2) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.

46. Before the end of April in each year the Treasurer shall prepare a yearly balance sheet, being an abstract of all the transactions in each of the accounts above mentioned during the preceding financial year ended the thirty-first day of March then last past, together with the statements following:— Yearly balance sheet and statements.

(a) A statement of the whole assets and liabilities of the Board at the end of the year:

(b) A statement of the public debt of the Board showing the total debt outstanding under the head of each loan raised, and the sinking fund in the bank or invested to provide for the repayment of each such loan.

Audit of accounts.

47. The Audit Office shall be the auditor of the Board, and shall have the same duties and powers in respect of the moneys and accounts of the Board, and of every person dealing therewith, as if the Board were a local authority within the meaning of section one hundred and twenty-four of the Public Revenues Act 1926.

Abstract of accounts.

48. The Treasurer shall forthwith after such audit make out a full abstract of the accounts for the year as audited, and cause a copy thereof to be submitted to each contributing authority.

Board may establish an Imprest Account.

49. (1) The Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall be kept at such bank as the Board from time to time appoints.

(2) The Imprest Account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Board, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Board. Where the Imprest Account is held jointly in the names of the Treasurer and of one other person as aforesaid, such last mentioned person shall be either a responsible officer of the Board or a member of the Board.

(3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, not exceeding seventy-five pounds in any case where the Imprest Account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(4) Moneys in the Imprest Account shall be available only for the payment of wages and of emergency expenditure. A statement of all payments made from the

Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be the misappropriation of the funds of the Board.

(5) The provisions of section forty-four of this Act shall be read subject to the provisions of this section.

50. (1) The Board shall be deemed to be a local authority for the purposes of the National Provident Fund Act 1950 and section six of the Finance Act (No. 2) 1941.

Superannuation
and other
benefits for
employees.

(2) The Board may from time to time pay by way of subsidy such sums as it thinks fit to the funds of any sick, death, or funeral benefit society or other like institution established by its employees, or any section of them, the benefits of which are confined to such employees and their dependants.

51. The Board may in every financial year out of the General Fund Account expend for purposes not authorized by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one per cent of the gross receipts of the Board for that year, exclusive of loan moneys, nor, in any case, to more than two hundred and fifty pounds.

Unauthorized
expenditure.

52. (1) The Board may from time to time borrow by way of special loan such sums as are necessary for carrying out the purposes of this Act.

Borrowing
powers.

(2) Special loans may be raised by the Board by special order without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act 1926.

(3) Under the provisions of this section the Board shall be at liberty to raise a loan for an authorized purpose for the benefit of a defined part or defined parts of the district (whether called by a distinctive name or not), and in any such case every local district within the defined part or parts shall, without limiting the meaning of the expression "legal subdivision" as used in section three of the Local Bodies' Loans Act 1926, be deemed to be a legal subdivision.

(4) Notwithstanding anything to the contrary in the Local Bodies' Loans Act 1926, a loan may be raised by the Board for the benefit of defined parts of the district, although such parts may not together form one continuous area.

(5) The provisions of section ninety-five of the Trustee Act 1908, or any subsisting statutory modification or re-enactment thereof, shall both in respect of trusts heretofore and hereafter created be deemed to be extended so as to apply to all bonds, debentures, and other securities issued by the Board and forming the whole or any portion of any loan which may be raised by the Board under the authority of this or any other Act.

Preliminary expenses.

53. The costs of promoting this Act and of investigating matters preparatory or incidental thereto, including surveys, reports of Commissions, experts, and others, legal expenses, and preliminary expenses in connection with the Board's main scheme of sewerage work, and whether paid or incurred by the Board or by the local authorities mentioned and referred to in section five hereof, or by any of them, shall be paid out of the funds of the Board.

Annual estimate of Board's proposed expenditure.

54. (1) The Board shall, on or before the thirtieth day of April in each year, cause an estimate to be prepared of the proposed expenditure of the Board for the ensuing year showing—

(a) The permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of loans:

(b) The sum or sums that may be required for carrying out or maintaining in good order any works hereby authorized to be constructed and any other works vested in or controlled by the Board and all other expenses in connection therewith:

(c) Any sums already available for such purposes:

(d) The additional sum required.

(2) Any deficiency or surplus at the end of any year shall be carried forward as an asset or liability, as the case may be, into, and calculated or allowed for in making and assessing, the next year's requirements.

55. During the month of May in each year the Board shall hold a meeting at which the contributions payable for the current year, commencing on the first day of April, by the contributing authorities shall be assessed, and written notice shall forthwith be given to each contributing authority showing the amount at which every contributing authority is assessed, together with a copy of the estimate of expenditure for the year.

Contributing
authorities,
annual
assessments.

56. (1) Such assessment shall be calculated and arrived at as follows:—

How assessment
to be
calculated.

- (a) The amount payable in respect of any special area, including the amounts required to cover capital, operating and maintenance costs, interest, and sinking funds, shall be charged and assessed to the local authority or authorities of the local districts or portions thereof comprising that special area in proportion to the mean percentage of the rateable capital value and population of the respective local districts or portions thereof, as the case may be:
- (b) The amount payable in respect of any combined area, including the amounts required to cover capital, operating and maintenance costs, interest and sinking funds, shall be charged and assessed to the local authority or authorities of the local districts or portions thereof comprising that combined area in proportion to the mean percentage of the rateable capital value and population of the respective local districts or portions thereof, as the case may be:
- (c) The cost of preparing a scheme of sewerage works for the whole of the district in pursuance of the powers and authorities in that behalf conferred upon the Board by the provisions of section thirty of this Act, including the cost of all engineering, technical, and other expert services and also the cost of all plans, surveys, investigations, and reports rendered and made in connection therewith, shall be charged to a separate account, to be called the Main Sewerage Works Account, to

be kept by the Board for that purpose, and such costs shall be charged and assessed to all the local authorities in the district in proportion to the mean percentage of the rateable capital value and population of their respective local districts, or such portions thereof as are within the district, as the case may be:

Provided that for the purpose of ensuring that such cost is apportioned in the most equitable manner amongst all portions of the district, having regard to the successive stages at and to which it is proposed that the said scheme of sewerage works should be developed therein, the Board may, if it thinks fit so to do, classify the district according to the stages at or to which it is intended that the said scheme of sewerage works should be developed in different parts thereof as aforesaid, and the Board may levy the amount payable under this paragraph on a sliding scale according to such classification. The provisions of the Land Drainage Act 1908 shall, as far as they are applicable and with the necessary modifications, apply to the classification and levy mentioned in this proviso as if set out herein:

- (d) The cost of the administrative and general expenses of the Board shall be charged and assessed on and borne by all the local authorities in the district in proportion to the mean percentage of the rateable capital value and population of their respective local districts, or such portions thereof as are within the district, as the case may be:

Provided that for the purpose of ensuring that such cost is apportioned in the most equitable manner amongst all portions of the district, having regard to the successive stages at and to which it is proposed that the said scheme of sewerage works should be developed therein, the Board may, if it thinks fit so to do, classify the district according to the stages at or to which it is intended that the said scheme of sewerage works should be developed

in different parts thereof as aforesaid; and the Board may levy the amount payable under this paragraph on a sliding scale according to such classification. The provisions of the Land Drainage Act 1908 shall, as far as they are applicable and with the necessary modifications, apply to the classification and levy mentioned in this proviso as if set out herein:

- (e) Where at any time hereafter trunk sewers, treatment works, or outfalls are provided, constructed, and installed of such capacity and dimensions as the Board may in its opinion deem necessary in order to provide not only for the immediate drainage requirements of any special or combined area of the district, but also for the future drainage requirements of any portion of the district which, for the time being, is not within any such special or combined area and which has been declared by the Board to be a future development area under the provisions of subsection seven of section three of this Act, the amount which represents the difference between the annual charges on the capital cost of providing, constructing, and installing such trunk sewers, treatment works, or outfalls as aforesaid, and the annual charges on the capital cost which was or would have been incurred if trunk sewers, treatment works, or outfalls were or had been provided, constructed, and installed of such capacity and dimensions only as were or would be sufficient for the time being to provide only for the drainage requirements of such special or combined area, shall be assessed and charged to the local authority or authorities of the local districts or portions thereof comprising such future development area in proportion to the mean percentage of the rateable capital value and population of the respective local districts or portions thereof, as the case may be. Such amount shall be assessed as an annual charge until such time as the particular future development area is provided with a drainage reticulation

system, whereupon such future development area shall become part of and be incorporated in the special area or the combined area, as the case may be.

(2) Where at any time, pursuant to the provisions of subsection six of section three of this Act, the boundaries of any special area or combined area are extended so as to include therein any portions of the district which may at any time hereafter be reticulated with and served by sewers connected with and draining into the outfall of such special or combined area, then, and in any such case, the amount assessed and charged in accordance with the provisions of paragraph (a) of the last preceding subsection shall, having regard to the alteration thereby effected in and to any such special area or combined area by the extension of the boundaries thereof as aforesaid, be due and payable as from the first day of April next following the date when the work of installing reticulation mains is commenced.

(3) Where at any time, pursuant to the provisions of subsection five of section three of this Act, any special area becomes part of or is incorporated in a combined area, then, and in any such case, the amount assessed and charged in accordance with the provisions of paragraph (b) of subsection one of this section shall, having regard to the alteration thereby effected in the status of any such special area as aforesaid, be due and payable as from the first day of April next following the date when the work of installing trunk sewers is commenced.

Appeal.

57. If any contributing authority is dissatisfied with such estimate or assessment, such contributing authority may, within twenty-eight days after notice of such assessment has been given to it, appeal to a Judge of the Supreme Court at Auckland against such assessment. Such appeal shall be commenced by notice of appeal being given to the Registrar of the said Court, who shall fix a day for the hearing thereof; and the contributing authority appealing shall give notice in writing to the Board and to each of the other contributing authorities stating the date when the same is to be heard and the grounds of such appeal, and thereupon the whole of such estimate and assessment shall be deemed to be set aside,

and the estimate of the contribution to be paid by every contributing authority shall be settled by the Judge, whose decision shall be final and binding upon the Board and all the contributing authorities.

58. The production in any Court of documents purporting to be—

Production of documents *prima facie* evidence.

- (a) A copy of the said estimate of expenditure; and
- (b) A copy of the said notice to each contributing authority purporting to be under the seal of the Board,—

shall be *prima facie* evidence of the liability of each local authority therein mentioned to pay to the Board the respective amount therein and thereby shown to be assessed as its contribution to the Board for the purposes of this Act.

59. (1) Each contributing authority shall, within thirty days after receiving the written notice referred to in section fifty-five of this Act, pay to the Board half the amount of the assessment or contribution required of it by the notice; and shall, within six months after the date of the receipt of such notice as aforesaid, pay to the Board the remaining half thereof:

Provisions as to payment and recovery of contributions from contributing authorities.

Provided that if an appeal against any assessment has been lodged under section fifty-seven of this Act, the amount fixed by the Judge shall be substituted for the amount of the assessment, and payment of half the amount so fixed shall be made by the contributing authority concerned to the Board within thirty days after the date of the decision of the Judge.

(2) Interest at the rate for the time being charged by the bankers of the Board for moneys owing to them by the Board, or that would be chargeable if such moneys were owing, as the case may be, shall be payable by any contributing authority to the Board on any amount payable by that contributing authority and remaining unpaid after the expiration of fourteen days from the date by which the payment should have been made under this section.

(3) If any contributing authority liable to make any payment under this section fails to make the payment or any part thereof within the time prescribed by this section, the amount so unpaid, together with interest as aforesaid, may be recovered as a debt due to the Board by the contributing authority.

Powers of contributing authorities in regard to payment.

60. Every such local authority shall, for the purpose of enabling it to make, and of making, such payment, have the following powers:—

- (a) It shall be entitled to pay the amount out of its ordinary revenue or funds:
- (b) It shall be entitled (if it does not pay the amount out of its ordinary funds) to strike and collect a rate or rates for such an amount in the pound as shall be sufficient to pay the amount of such assessment and interest thereon (if any) and the cost of and incidental to the making and collection thereof, and shall be entitled to make and levy such rate or rates in addition to all rates which it is entitled to make and levy under any other Act, and notwithstanding any provision in any Act limiting or in any way affecting the rating power of the local authority. Such rate or rates shall be either a rate made and levied on the rateable value of all rateable property within the local district of the local authority or a rate made and levied on the rateable value of a specified portion or portions only of the rateable property within that local district according to whether in the opinion of the local authority special provision is required to be made for the drainage or sewerage of any particular portion or portions of the local district by reason of such portion or portions being included in or becoming part of a combined area or a special area of the district of the Board, as the case may be:

Provided that nothing in this paragraph or in this or any other Act shall be deemed to prevent or preclude any such local authority from making and levying for all or any of the purposes aforesaid both a rate on the rateable value of all such rateable property within its local district as is included in the district of the Board and also a rate on the rateable value of a specified portion or portions only of the rateable property within the local district:

- (c) It may classify the rateable properties within its local district or those portions thereof which are included in or which have become part of a combined area or a special area of the district of the Board and levy a rate on a sliding scale according to such classification. The provisions of the Land Drainage Act 1908 shall, as far as they are applicable and with the necessary modifications, apply to the classification and rate mentioned in this paragraph as if set out herein.

61. (1) If any such local authority, after notice of the said assessment is delivered to it, or, in the case of appeal, after the decision of the said Court, fails to pay the first or last half thereof, or any part thereof, for the period of thirty days after the day on which it should be paid, or the interest thereon, it shall be lawful for the Board, in addition to any other powers or remedies hereby given, to make, levy, and collect the said rate, and to pay or retain the amount of the assessment or contribution and interest and all costs and charges it has been put to in consequence of such default or neglect.

Power of Board to recover from contributing authorities in case of default.

(2) The local authority so in default shall, on request, hand over and supply to the Secretary of the Board correct lists of rateable properties, rate books, assessment rolls, and all other documents and books of any and every kind necessary, or considered so by the Board or its officers, for the purpose of enabling the Board to make, levy, and collect such rate as aforesaid.

(3) Such local authority and its officers and servants shall give every assistance to the Board and its officers to make, levy, and collect such rate as aforesaid.

(4) For the purpose of enabling the Board to collect and recover the amount of the contribution or assessment, interest, and costs, any Judge of the Supreme Court shall, on application by or on behalf of the Board, have the same power, with the necessary modifications, with reference to such contributing authority as he would have under the Local Bodies' Loans Act 1926 if default had been made by that authority in payment of any principal or interest due on any debenture issued by it, and

also full power to order, authorize, and empower the Board and its officers to strike, levy, and collect such rate in the same way and to the same extent as the local authority so in default would be entitled to do.

Miscellaneous

Restrictions on right to construct works and discharge sewage within harbour limits.

62. (1) It shall not be lawful for the Board without the consent in writing of the Auckland Harbour Board, and then only in such manner and upon such conditions as are approved by the Auckland Harbour Board from time to time, to carry out, construct, maintain, or use within harbour limits, or to permit to be or remain or to be used within harbour limits, any structure, sewer, outfall, reclamation, or other works; or to discharge or permit to be discharged any sewage, refuse, sludge, effluent, or other matter within harbour limits or in or on to any place where it may be carried, by the wind or current or tide or otherwise, within harbour limits. Any consent granted by the Auckland Harbour Board under this subsection may, subject to the provisions of the next succeeding subsection, be withdrawn by the Auckland Harbour Board at any time:

Provided that nothing in this subsection shall nullify or affect any consent heretofore granted by the Auckland Harbour Board in respect of the construction, maintenance, use, or carrying out by any contributing authority within harbour limits of any structure, sewer, outfall, reclamation, or other works, or in respect of the discharge of any sewage, refuse, sludge, effluent, or other matter into the Auckland Harbour.

(2) In any matter where the consent or approval of the Auckland Harbour Board is required, such consent or approval shall not be unreasonably or arbitrarily withheld, and in the event of any dispute or difference arising between the Board and the Auckland Harbour Board as to any such consent or approval or otherwise in connection with the Board's operations, the dispute or difference shall be referred, if it involves questions relating principally to engineering matters, to a single arbitrator who shall be an engineer nominated for the purpose by the President for the time being of the New Zealand Institute of Engineers, and, otherwise, to two

arbitrators, one to be appointed by each party to the dispute or difference, or to an umpire to be appointed by the arbitrators, and, in either case, pursuant to and with the consequences of a submission to arbitration under the Arbitration Act 1908.

63. If any action is commenced or prosecuted touching or concerning the right, title, or interest of any owner or proprietor of or in any lands taken or injuriously affected by anything done in pursuance of this Act or in execution of the powers or authorities herein, the commencement or prosecution of such action shall not of itself impede, delay, or hinder the Board from proceeding in the execution of the powers vested in it by this Act.

Commencement of action not to stop works of Board.

64. (1) The Board and the officers and servants of the Board may enter upon any premises within the district for the purpose of examining as to the existence of any nuisance thereon, or as to the breach of any of the provisions of this Act or the by-laws (with power to examine any drain or other sanitary apparatus or appliances), or for the purpose of enforcing the provisions of this Act and the by-laws, or for the purpose of executing, providing, or doing any works, materials, or things which the Board is authorized or empowered to execute, provide, or do under or by virtue of this Act or the by-laws.

Board may enter premises for purpose of inspection.

(2) Any owner or occupier of premises within the district who refuses to permit or allow the Board or any of its officers or servants to enter thereon for any of the purposes mentioned in the last preceding subsection, and every person who obstructs the Board or any of its officers or servants in the exercise of any of the powers mentioned in the last preceding subsection, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds for each such offence.

65. All fines imposed by this Act or by any by-law made under the authority of this Act may be recovered in a summary manner under the Justices of the Peace Act 1927.

Recovery of fines and penalties.

66. Subject to the provisions of section twenty-six of this Act, the provisions of this Act and of all by-laws made by the Board shall be enforced by the Board or its officers.

Enforcement of by-laws.

Property of Board not liable to be rated.

67. No property of the Board owned or used by it for the purposes for which it is incorporated shall be liable to be rated by any local authority.

Penalty for damaging sewer or drain.

68. Any sewer or drain constructed or maintained by the Board shall be deemed to be the property of the Board, and any person doing any act whereby such sewer may be injured or its efficiency impaired is liable to a fine not exceeding fifty pounds, without prejudice to the right of the Board to recover by action damages for any trespass or injury to the said sewer.

Offences under Act.

69. Any person doing anything contrary to the provisions of this Act or any by-law made thereunder, or omitting or failing to perform any duty imposed on him by or arising under this Act or any such by-law, shall be guilty of an offence, and, in cases where no other penalty is provided, shall be liable to a fine not exceeding fifty pounds; and whenever such act or omission is of a continuous nature a further offence shall be deemed to be committed on each day on which it is continued; and whenever power is given by this Act or by any by-law to order anything to be done or omitted, an offence shall be deemed to be committed on each day on which any person disobeys or fails to comply with any such order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered by reason of an offence, the Court may add to the fine compensation for any loss the Board may have sustained:

Provided that such compensation, unless awarded at the express request of the Board, shall not, excepting as to the amount thereof, relieve such person of any civil liability in respect of his act or omission.

Governor-General may extend time fixed by Act for exercising powers, &c.

70. At any time before or after the day appointed for the holding of any meeting of the Board or for the doing of any act, matter, or thing by this Act required to be done by the Board on or before a day certain, it shall be lawful for the Governor-General to extend the time allowed or fix a later day for the holding of the meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding that the day may have passed on which it ought to have been held or done, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal nature

by which the carrying out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out.

71. (1) Nothing in this Act shall—

- (a) Authorize the Board to interfere with any public work executed or carried on by or under the control of the Crown without the previous consent and approval of the Minister of Works or, if the work is being executed or carried on by or under the control of some other Minister, of that other Minister; or
- (b) Prejudice or affect any power or authority vested in His Majesty, or in the Governor-General, or in any Minister or other person on behalf of His Majesty or the Governor-General, under any Act relating to the erection, construction, carrying on, or maintenance of any work.

Government works not to be interfered with.

(2) In giving any consent and approval under the last preceding subsection the Minister of Works, or such other Minister as aforesaid, may impose such conditions as he thinks fit.

72. Nothing in this Act shall derogate from any of the provisions of any of the following enactments:—

Certain enactments not affected.

- (a) The Fisheries Act 1908:
- (b) The Shipping and Seamen Act 1908:
- (c) The Health Act 1920:
- (d) The Soil Conservation and Rivers Control Act 1941:
- (e) The Transport Act 1949:
- (f) The Boilers, Lifts, and Cranes Act 1950:
- (g) The Harbours Act 1950:
- (h) The Machinery Act 1950.

Schedule.

SCHEDULE

Section 3

NORTH SHORE DRAINAGE DISTRICT

ALL that area in the North Auckland Land District, being the Boroughs of Devonport, Takapuna, Northcote, Birkenhead, and part of the County of Waitemata, bounded by a line commencing at a point on the line of mean high water of the Auckland Harbour, at the Paremoremo Wharf, and running northerly generally along the eastern side of Paremoremo Road to the north-western corner of Allotment 200, Paremoremo Parish; thence along a right line across the Albany-Paremoremo Road to and along the eastern side of Hobson's Road to the north-western corner of Allotment 128, of the aforesaid parish, and along a right line being the production northerly of the northern end of the western boundary of the said Allotment 128 to and north-westerly generally along the north-eastern side of the Birkenhead-Maungaturoto State Highway to and along the eastern side of the public road forming the generally western boundaries of Allotments N.11, 290, 291, 292, Parish of Pukeatua, Allotments 85, 253, 252, and 251 and intersecting Allotment 79, all of Okura Parish, to the Redvale-Silverdale Road; thence along the generally eastern side of the last mentioned road to a point in line with the northern side of the public road intersecting the western portion of Allotment 29, Parish of Okura; thence along a right line across the aforesaid Redvale-Silverdale Road, to and along the aforesaid northern side of the road intersecting the said portion of Allotment 29 and Allotment 261 of the Parish of Pukeatua, and along the generally northern side of the public road forming the generally southern boundaries of Allotments 7A, 7B, 7C, 7D of the Parish of Okura, Lots 9, 8, 7, and 6 as shown on the Deeds Plan numbered 1375, being parts of Hatfield's Claim, Lot 82 L.C., another part of Lot 82 aforesaid, and Allotments 257, S.W.257, and 256 of the Parish of Pukeatua to the northern side of Massey Road; thence along the northern side of the aforesaid Massey Road to and along the eastern side of the public road forming the western boundaries of Allotments 102, 103, 104, 104A to the south-western corner of Allotment 244, the aforesaid allotments all being of the Parish of Pukeatua; thence north-easterly and easterly generally along a right line to Trig. Station numbered XII, situated in Block VII, Waiwera Survey District, along another right line to Trig. Station Hall's Hill in the aforesaid Block VII, along another right line to Trig. Station XII B in Block III of the aforesaid survey district, and along another right line from the aforesaid Station XII B and passing through Trig. Station 917 (Te Whau) in the said Block III to the line of mean high water of the Hauraki Gulf; thence southerly and westerly generally along the line of mean high water of the Hauraki Gulf aforesaid and the shores of the Auckland Harbour to the point of commencement: as the same is more particularly delineated on the plan numbered 36991, lodged in the Office of the Chief Surveyor at Auckland, and thereon edged red.