

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

House of Representatives, 18th November, 1921.

Hon. Mr. Downie Stewart.

DUNEDIN DISTRICT DRAINAGE AND SEWERAGE
AMENDMENT.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

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

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— Short Title.

1. This Act may be cited as the Dunedin District Drainage and Sewerage Amendment Act, 1921, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900.

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

10 “The principal Act” means the Dunedin District Drainage and Sewerage Act, 1900 :

“The said Acts” means the principal Act and all Acts now or hereafter passed amending or extending the same, including this Act :

15 “The Amendment Act, 1906,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1906 :

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

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

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

25 “Delegate” means a local authority directed to make, levy, and collect a special rate, and shall include each such local authority in respect of the borough of that local authority.

Power to reborrow.

3. (1.) The Board may reborrow such moneys as may from time to time be required for the purpose of paying off any moneys raised or borrowed by the Board under or by virtue of the said Acts or any of them.

(2.) The power given by this section shall be exercisable only by special order. 5

(3.) This section is in lieu of subsection seven of section fifty-eight of the principal Act and of subsection one of section twelve of the Amendment Act, 1909, which said subsections are hereby repealed.

Further borrowing-powers.

4. The Board may from time to time, for the purposes of the said Acts other than the purposes mentioned or referred to in section seventy of the principal Act, borrow any sum or sums of money not exceeding in the whole *eighty thousand* pounds in addition to any moneys heretofore authorized to be borrowed. 10

Subject to this Act, said Acts to apply to moneys borrowed hereunder.

5. Subject as is provided in this Act, all the provisions of the said Acts shall apply to moneys borrowed or reborrowed under or by virtue of this Act in like manner as if the same formed part of the loan authorized by section fifty-six of the principal Act. 15

Interest on loans.

6. (1.) Notwithstanding any provisions to the contrary contained in the principal Act or any other Act, it shall be lawful for the Board to borrow all or any of the moneys by this Act authorized to be borrowed or reborrowed at a rate of interest not exceeding ~~six pounds~~ *five pounds ten shillings* per centum per annum, but nothing in this section contained shall affect or prejudice any authority which may be granted under or by virtue of section eleven of the Finance Act, 1921, or any other Act hereafter passed giving power to authorize payment of a rate of interest exceeding ~~six pounds~~ *five pounds ten shillings* per centum per annum. 20 25

(2.) Subsection two of section fifty-eight of the principal Act shall, as to the moneys so borrowed or reborrowed, be read and construed with such modifications in regard to the rate of interest on such moneys as may be necessary for giving effect to this section. 30

(3.) The proviso to subsection four of the said section fifty-eight is hereby repealed.

Trustees may invest.

7. The provisions of section ninety-five of the Trustee Act, 1908, and of any Act hereafter passed in amendment thereof or in substitution therefor shall, in respect of trusts heretofore and hereafter created, apply to all bonds, debentures, or other securities issued or to be issued by the Board and forming the whole or any portion or portions of any loan which has been or may hereafter be raised by the Board under the authority of the said Acts or any of them. This section is in lieu of subsection nine of section ~~fifty-seven~~ *eight* of the principal Act, which subsection is hereby repealed. 35 40

Security for loan.

8. For the purpose of securing the repayment of any moneys borrowed or reborrowed under the authority of this Act and the interest thereon, the Board may from time to time appropriate and pledge as such security a special rate made and levied for the purposes of such loan. Such security shall be in addition to the rights and remedies conferred on holders of debentures under or by virtue of the said Acts, and in particular sections fifty-eight and sixty-five of the principal Act. 45

Special rate.

9. (1.) If and whenever the Board shall determine to borrow or reborrow any moneys under the authority of this Act, the Board may by resolution make, levy, and collect, or direct to be made, levied, and collected, a special rate to provide for the payment of interest, or interest and sinking fund, or interest and principal, as the case may be. 50

(2.) Such special rate shall be made and levied by resolution gazetted in the form or to the effect of the form in the *First* Schedule hereto, whether the same be made and levied by the Board or by a delegate of the Board, pursuant to sections fifty-three and fifty-four of
5 the principal Act :

Provided that if the option given by the said section fifty-three is exercised in different ways the said form may be varied accordingly.

(3.) Every special rate shall be an annually recurring rate, and shall be payable at intervals as specified in the resolution ; and shall be levied
10 year by year, without further proceeding by the Board or its delegate, until the loan in respect of which the special rate was made is paid off.

(4.) Every special rate shall be so calculated as to yield, if necessary, ten pounds per centum more than the annual or other charges in respect of the loan.

15 (5.) All the rateable property within the district shall be liable to the special rate.

(6.) Where after the special rate is made any property within the district becomes rateable property within the meaning of the Rating Act, 1908, such property shall become liable to the special rate, and
20 shall be rated accordingly.

(7.) All special rates shall be applicable to the loan as security for which they were made and to no other purpose.

(8.) The provisions of sections fifty-three and fifty-four of the principal Act shall, *mutatis mutandis*, extend and apply to every such
25 special rate.

(9.) The power conferred upon the Board by this section shall be in addition to its general rating-powers as prescribed by section forty-nine of the principal Act.

10. (1.) Sections fifty-three and fifty-four of the principal Act are hereby amended by ~~repealing~~ *omitting* the words "local bodies" wherever such words occur in such sections respectively, and substituting therefor the words "local authorities."

Amendment of sections 53 and 54 of principal Act.

(2.) Section fifty-three of the principal Act is hereby amended by ~~inserting therein at the end thereof~~ *adding* the following proviso :—

35 "Provided that as to all or any of the said local authorities the Board may at any time before such direction has been carried into effect revoke such direction by resolution notified in writing to such local authorities or authority."

(3.) Section fifty-four of the principal Act is hereby amended as
40 follows :—

(a.) By inserting therein the words "made and" immediately before the word "levied" wherever such word occurs in such section :

45 (b.) By inserting therein the words "all or any of" immediately following the words "collected by."

(4.) This section shall be deemed to have been in force as from the passing of the principal Act.

11. (1.) The Board may by resolution decide to pay and may pay accordingly out of its General Fund all or any part of the interest, or
50 interest and sinking fund, on the loan as security for which any special rate shall be levied.

Payment out of General Fund.

(2.) To the extent to which the payments authorized by this section are made as therein mentioned it shall not be necessary to collect the special rate.

Amendment of
special rate.

12. (1.) The Board may from time to time by resolution amend a special rate by increasing or diminishing it, if necessary, so that the annual produce thereof shall suffice to provide the payment of interest, or interest and sinking fund, on account of the loan secured thereon. Such power of amendment shall be exercisable whether the rate is made and levied by the Board or its delegate, and each delegate shall be bound by such resolution. 5

(2.) No special rate shall be diminished unless the Audit Office previous to any such reduction approves thereof in writing, and such reduction shall continue only for so long a period as the Audit Office approves in writing. 10

No objection to
special rate.

13. Section sixty-nine of the principal Act shall extend and apply to any special rate purporting to have been made or levied by the Board or its delegate under or by virtue of the provisions of this Act and to any informality or irregularity in the proceedings for the pledging of such rates. 15

Transfer of
debentures.

14. (1.) Debentures and coupons respectively shall be transferable by delivery, and payment of the sum named therein to any person in possession of any such debenture or coupon shall discharge the Board of all liability in respect of such debenture or coupon. 20

(2.) Any debenture may also be transferred by endorsement, in or to the effect of the form in the *Second* Schedule hereto or by separate form of transfer to the like effect, and such transfer or a notarially attested copy thereof may be presented for registration in the books of the Board at its public office. 25

(3.) Such transfer or the registration thereof shall not prevent such debenture from subsequently passing by delivery alone, or affect the right of the holder thereof for the time being to demand from the Board payment of the moneys secured thereby in terms thereof or his right to receive any conversion or other new debenture or compensation in exchange therefor under any scheme for such exchange, or otherwise to deal as the owner thereof with the Board; nor shall such transfer or registration preclude the Board from so dealing with such holder. 30

(4.) This section shall apply to all debentures and coupons issued by the Board, whether before or after the passing of this Act. 35

Hypothecation of
debentures.

15. Pending the raising of any loan, the Board or its agents may borrow any sum or sums of money not exceeding the whole amount authorized to be borrowed by the hypothecation, pledge, mortgage, or charge of any debentures authorized to be issued under or by virtue of this Act on such terms as the Board shall think fit, but all moneys so borrowed shall be a first charge upon and shall be repaid out of the loan when raised. 40

Applications under
Land Drainage Act.

16. (1.) The amount of compensation payable to any adjoining owner, occupier, or other person interested in consequence of any exercise of the rights or powers vested in the Board by section twenty-four of the Amendment Act, 1909, may be settled, ascertained, or determined by the Board by agreement with such adjoining owner, occupier, or other person interested, or by arbitration in manner provided by the Arbitration Act, 1908, all the provisions whereof shall apply; and the provisions of section seventy-four of the Land Drainage Act, 1908, shall apply to compensation ascertained or determined pursuant to this section. 45 50

(2.) Subsection three of the said section twenty-four is hereby amended by ~~repealing~~ *omitting* the word "opened," and substituting the words "laid or constructed."

17. Where the premises comprised in a lease shall have been sub-
 5 divided by way of sublease of any part or parts thereof it shall be lawful
 for the Drainage Engineer, if he in his discretion shall think fit so to do,
 to certify separately in respect of the premises comprised in the sublease
 or each sublease, as the case may be, the cost of any works, materials,
 or things executed, provided, or done by the Board and affecting such
 10 premises exclusively or the share and proportion of the said cost where
 any such works, materials, or things do not affect such premises
 exclusively, in like manner as if the sublessee were the owner within the
 meaning of the said Acts of the premises comprised in his sublease ;
 and the cost or share and proportion, as the case may be, so certified
 15 shall be conclusive as between the head lessor and the sublessee or each
 sublessee, as the case may be, and as between the sublessees respectively
 for the purposes of section eighteen of the Amendment Act, 1913, and
 section thirty-three of the principal Act. This section is in extension,
 and not in restriction, of the provisions contained in such sections
 20 respectively.

Sublease.

18. (1.) The Board may, in lieu of ~~ordering~~ *requiring* works to be
 executed pursuant to section twenty-five of the principal Act and
 connected to a drain in common pursuant to subsection four of section
 five of the Amendment Act, 1912, elect to do the whole of the works
 25 without any notice to the respective owners of the premises other than
 is by this section required.

Drains in common.

(2.) Whenever the Board has entered into an agreement with the
 owner of premises in the district for the execution of any works the
 Board may connect such works to a drain in common, whether such
 30 connection be provided for in the agreement or not, and the cost thereof
 shall be deemed to be part of the cost of the works.

(3.) Notice in writing of such election shall be given to the owner
 of the premises served or to be served by the works, except where such
 works are to be executed at the request of such owner.

35 (4.) Notice in writing of the Board's intention to connect the
 works to the drain in common shall be given to the respective owners
 within the meaning of the said Acts of the premises served by the drain
 in common.

(5.) If and whenever the Board shall make a connection to a drain
 40 in common as aforesaid the provisions of subsection five of section five
 of the Amendment Act, 1912, shall, *mutatis mutandis*, apply in like
 manner as if the connection were made pursuant to a requisition under
 or by virtue of the said subsection four, but the charge shall take effect
 from the date of the agreement or the notice of election given pursuant
 45 to subsection *three* hereof, as the case may be.

(6.) The interest payable under or by virtue of paragraph (c) of
 subsection five of section five of the Amendment Act, 1912, shall be at
 the rate of seven pounds ten shillings per centum per annum, and be
 computed from the date of the certificate of the Engineer as provided
 50 in the said subsection.

(7.) Paragraphs (a) to (f) (~~both inclusive~~) of section six of the
 Amendment Act, 1906, but excepting paragraph (c), shall apply to
 works executed by the Board pursuant to this section and the cost
 thereof. The word "owner" in such paragraph shall for the purpose

of this section mean the owner of the premises served or to be served by the works.

(8.) If and whenever a drain in common shall be connected to a single private drain, or a single private drain to another single private drain, or a single private drain to a drain in common, in each case the whole shall become and be a drain in common. 5

(9.) A drain in common constructed or laid wholly or partly by the Board or under or by virtue of any order or direction of the Board or wholly or partly under or by virtue of any agreement made pursuant to section twenty-five of the Amendment Act, 1909, and whether 10 constructed or laid as one operation or at different times, may be used by the owners for the time being of the respective premises to serve which the same was constructed or laid as an easement binding and appurtenant to such premises respectively, notwithstanding the provisions of any other Act. This subsection is in lieu of subsection five 15 of the said section twenty-five, which subsection is hereby repealed.

Execution of works on election.

19. It shall be lawful for the Board to execute works in accordance with any election made by the Board pursuant to the said Acts. This section shall be deemed to have been in force as from the passing of the principal Act. 20

Schedules.

SCHEDULES.

FIRST SCHEDULE.

RESOLUTION MAKING SPECIAL RATE.

The Dunedin District Drainage and Sewerage Acts Amendment Act, 1921.

IN pursuance and exercise of the powers vested in it in that behalf by the Dunedin District Drainage and Sewerage Acts Amendment Act, 1921, the Dunedin Drainage and Sewerage Board [*or the local authority to whom the making, levying, and collecting of the special rate is delegated, as the case may be*] hereby resolves as follows:—

That for the purpose of providing the interest and other charges on a loan of [*Amount of loan*] authorized to be raised by the Dunedin Drainage and Sewerage Board under the above-mentioned Act the said [*Name of Board or local authority, as the case may be*] hereby makes and levies a special rate of [*State amount*] in the pound upon the rateable value of all rateable property of the Dunedin Drainage and Sewerage District [*or name of district of local authority*], and that such special rate shall be an ~~annual~~ *annually* recurring rate during the currency of such loan, and be payable half-yearly on the day of and the day of [*or yearly*] on the day of] in each and every year during the currency of such loan, being a period of [*State number*] years, or until the loan is fully paid off.

SECOND SCHEDULE.

TRANSFER.

I, , of , hereby transfer to , of , the within [*or a certain*] debenture [*Describe debenture by name and year of loan and number*] of the Dunedin Drainage and Sewerage Board, Dunedin, New Zealand.

Dated this day of , 19 . A. B., Transferor.

Signed by the said A. B. in the presence of—C. D., [*Address and occupation*].

(NOTE.—The witness, whether in or out of New Zealand, should be a Justice of the Peace, barrister, solicitor, minister of religion, Mayor, Town Clerk, or Chairman or official of a local authority.)